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THE ATTITUDE OF PRIVATE CONSCIENCE TOWARD CORPORATE RIGHT

A DISTINGUISHED German scholar, writing recently of the characteristic phases of American life, remarks that the most distinctive phenomenon which he has observed in our people is the unwillingness of anyone to champion the unpopular side.[1] The rule of the majority has become so complete that its number automatically silences every protest and frequently causes our scruples to hide themselves. In no regard is this criticism more true than in our point of view of the industrial corporation, or the corporation having a capital stock. Corporate abuses have been the frequent subject of magazine essays; newspaper tirades are vented ever and again upon this well-worn topic; and agitators and reformers find in this subject an inexhaustible theme for popular lectures and for literary clubs. Political campaigns always inspire in the partisan platforms sonorous paragraphs insisting upon the regulation of corporate abuses, and in the sessions of the state and national legislatures committees devote long hours and sometimes a modicum of candid consideration to the same perennial theme. Meanwhile, in the midst of almost universal condemnation, industry is rapidly and surely assuming corporate form and forsaking the old-time direction of the individual owner of the enterprise. Few undertakings which involve a business of a million dollars a year are now managed in any way but by a legally organized private corporation; and numerous smaller enterprises, involving sometimes not more than five thousand or

[1] Hugo Münsterberg, in *McClure's Magazine*, August, 1908, p. 438.

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ten thousand dollars in annual receipts, have assumed corporate organization and management. Unquestionably within a short time, not more than two decades hence, the private and individual direction of industry, of commercial exchange and of the business of common carriers will practically have ceased.

The corporate organization of industry, in so far as American experience is concerned, is largely an outgrowth of the last half of the nineteenth century. The conditions of American civilization during the entire colonial period were such as to give the utmost prominence to the individual. In spite of the leveling tendency of American democracy, successful men of business were referred to as "merchant princes," which appellation has more recently given place to the more suggestive title of "captains of industry." Each of these titles, however, emphasizes the fact that it is the individual whose business acumen has achieved great results. Of the corporate idea as related to industrial organization the American has known but little. Prior to the beginning of the nineteenth century, less than thirty business enterprises were conducted upon lines which could even remotely suggest the modern private corporation.[1]

During the past fifty years the advantages of corporate organization for the direction of extensive industrial and commercial undertakings have been increasingly appreciated. The vast extent of the territorial possessions of the nation, the necessity of large aggregations of capital for the development of natural resources and of transportation and the growing demand for multiplied production and for facilities for the control of fluctuating market conditions have forced the individual into the background and have hastened the rise of the industrial corporation as a means of business direction and economic control. So accustomed had we become to the dominant personality of the director of a business enterprise that the corporation itself has assumed the form and many of the functions of a person. Indeed, its legal status is that of a person. It is created by the voluntary association of several persons who have united their capital and skill to carry out, more effectually than the separate

[1] Two Centuries Growth of American Law, p. 276.

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individuals could hope to do, some pecuniary purpose of magnitude. Its existence is made possible by legislative enactments which authorize such associations. To facilitate the accomplishment of the objects of its existence, it is endowed by law with various attributes and functions of the human personalities by whom it has been brought into being. It has a name under which the ends of the association are accomplished and by which alone it is capable of acting. It has a definite residence. Its life is fixed for a period of years, and in business relations and in legal fact it maintains an existence separate from that of its incorporators. Upon the approval of its charter, it is endowed with powers by which it may act apart from the immediate oversight and control of its stockholders.[1] It is managed by a board of directors, who are dependent for their tenure of office upon the ballots of the stockholders; but after their election they are vested with authority to conduct the corporation according to their own bent, without interference by the respective owners of the corporate stock. And so long as the scope of the articles of incorporation is not transcended, the acts of the directors are independent of the control of the stockholders. The directors, however, are not the corporation: it maintains an existence of its own and is responsible for its acts independently of their directing agency. To all intents it is a person, quite as truly as the human personalities by which it is surrounded, and the magnitude of its undertakings sometimes endows it with a visage as portentous and a power as transcendent as were ascribed to the genii of mythology.[2] At the same time we must not forget that it offers opportunities for the investment of capital and facilities for enlarged production without which the economic world would be paralyzed, and that it has largely created the complicated industrial state from the crude

[1] Thompson, Commentaries on the Law of Private Corporations (2nd ed., 1908), sec. 2.

[2] A very important distinction must be kept in mind: that while the courts hold that the corporation is a person, they deny that it is a citizen within the meaning of the constitutional provision that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." Thompson, *op. cit.*, sec. 12. Paul *v.* Virginia, 8 Wallace (U. S.), 168. Tatem *v.* Wright, 23 N. J. L., 429.

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beginnings of the era of household production. It affords to the investor opportunity to participate in the advantages of an organized business and to receive a return from his investment commensurate with the earnings of active capital, and at the same time it relieves him from the necessity of giving to the management of the business his personal attention. It has greatly increased the demand for specialized training and has opened a large field for individual preferment which was unknown before its advent.

It seems rather anomalous and difficult of comprehension that a form of industrial organization which universally commends itself to the business world should yet be visited with marked popular opprobrium. During the nineteenth century the sympathies of the American people, in common with those of European nations, have been greatly sensitized. Philanthropy has grown to the proportions of a profession, and one of the chief uses of enormous fortunes is in the creation of agencies for social amelioration. The mere suggestion of philanthropy brings to mind prisons which have been placed upon reformatory bases, asylums for the poor and insane which have been built and are conducted upon modern scientific lines, nurseries and foundlings' and children's homes which have been organized and endowed for the care and nurture of unfortunate and abandoned children, libraries which have been instituted through public initiative or private gift and, withal, a widespread disposition upon the part of everyone to ameliorate suffering. The neighborhood spirit is more tender and sympathetic than ever. Misfortune calls for an immediate expression of a common brotherhood, and this new spirit marks the nineteenth century as one of great sympathetic advancement.

But this new spirit strictly limits its benefactions to actually living and breathing persons. It is the unfortunate child or man or woman whose downfall or reverse calls for an immediate expression of the altruistic spirit. While ethical standards have risen and clarified during the past hundred years, they still yield their noblest fruitage when the object of the benevolence is a sentient person. From these benefactions the private corporation having a capital stock is rigorously excluded. In legal

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parlance the corporation is a person; courts of highest resort have decreed that private corporations are entitled to some of the immunities of the bill of rights; and legislatures by numerous enactments have provided certain functions which corporations are capable of performing and have limited the corporate agencies to certain specific objects.[1] But public opinion has decreed quite as ultimately that a private corporation is not a person within the meaning of modern philanthropy; that the ethical accumulations of the age are limited in their practical benefits to the organic persons who inhabit physical bodies; and that the creation of legislation, the intangible something which owes its existence to the fiat of some lawmaking body, can have no part in the rich ethical products of the nineteenth and twentieth centuries. Private conscience will not admit that it owes any obligation to a corporate personality. The attitude of the common mind toward every industrial corporation is one of inherent antagonism. It would not, indeed, be expected that such a corporation should become an object of private benefaction, for the common mind associates the concept of a corporation with accumulated wealth. In every view of the industrial corporation in relation to society, the individual compares himself as an individual with the corporation and finds himself overawed and menaced by this legislative creation. The individual refuses to view the corporation from the point of view of society, and to perceive in it but a single form of social activity and expression. And when the individual scrutinizes the corporation from his individualistic point of view, it would be absurd to suggest to him that it is an object worthy of sympathetic attention. When the lion and the mouse are brought within the same arena, no one bestows any sympathy upon the lion.

But private conscience is not content with a merely negative attitude toward the corporation nor with a simple denial of social obligation toward this legislative being. Private conscience is absolutely regardless of corporate right. The private

[1] Morawetz, Private Corporations, vol. i, sec. 227. Cook, On Corporations (4th ed.), sec. 1. Tucker, Commentaries on the Constitution of the United States, vol. ii, p. 863.

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individual would not, indeed, break into a factory and burglarize it while the watchmen are absent, nor would he gather his fellows together and destroy the plant of the corporation. But in every contingency in which the rights of the corporation impinge upon the rights or immunities of individuals, the latter assert the prerogatives of the human personality and deny justice to the corporation. Nowhere is this tendency to refuse the corporation fair play more evident than in damage litigation. Throughout the entire country damage actions for personal injuries are growing in number, and with each recurring legislative session additional laws are enacted which give persons greater rights and which increase corporate liability for injuries to employees. In a trial of a damage suit this tendency to do injustice to the corporation is especially evident. If the defendant employer is a private individual, the jury trial may result in a verdict in his favor, if the evidence for the injured plaintiff is particularly weak; but if the defendant employer is a corporation, inevitably the verdict of the jury is adverse to it. This bias of a jury is recognized by all trial attorneys. The lawyer who makes damage actions a specialty feels that if he can establish a *prima facie* case the jurors will permit their antipathies for the *genus* corporation to overweigh any evidence that may be introduced in its favor. And the corporations are compelled as a matter of self-protection to appeal every damage action to the courts of last resort, regardless of the amount which may be involved, in order that a body of precedent may be created which may at least lead to the adjudication of damage actions by the trial courts as questions of law and without their submission to the bias of a jury.

The excessive and unreasonable prejudice of the common mind against corporations engaged in commercial and industrial ventures is exemplified in every term of our trial courts. Recently a case which is not extraordinary in any of its characteristics came under the observation of the writer. A motorman of an interurban car, in defiance of positive orders to give precedence to another car coming from the opposite direction, left the switch or sidetrack, on which he had been commanded to remain until the other car should pass, and caused a collision.

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The portion of track upon which the collision occurred was in plain view from the switch, and the approaching car which had precedence could be seen at a distance of several hundred yards. The action of the motorman in leaving the switch was not only a violation of positive orders but was inexcusable, because he could and did see the other car approaching. The motorman was naturally headstrong and overbearing, and he probably decided that he would frighten the motorman of the other car and obtain the right of way for himself. The collision caused serious injuries to a number of passengers. Excluding the damage to the two cars and the necessary attorney fees, the cost to the corporation for injuries to passengers aggregated sixty-four thousand dollars. The negligent motorman was fatally injured in the collision and died within a few hours. Had he lived, he would probably have been indicted for criminal negligence. But he died; and shortly after his decease his bride of less than a year gave birth to a child. An action was brought by the widow as administratrix of her husband's estate against the interurban company, and in spite of the ability of the corporation's attorneys a verdict was rendered against it for eight thousand dollars. To the writer, whose relation to this litigation was only that of an auditor at the trial, it seemed that the conclusive evidence against the corporation was the woman in black sitting beside her attorney, holding a babe in her arms. Probably the jury observed merely that fact and, over against it, a corporation reputed to be the possessor of large wealth.

This incident can be duplicated in all its essential characters in any court room in the United States. If the action for damages is instituted against an individual or against a partnership composed of individuals who are local residents, the verdict of the jury will be based more surely upon a consideration of the facts presented in evidence. But whenever a corporation is defendant, its impersonal character alone is perceived; and the verdict of the jury in every such case is a reënunciation of the importance of man over things.

This disregard of corporate right by the private conscience is manifested, however, in many other ways. The person who prides himself most upon his integrity does not hesitate to take

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advantage of any incorporated body. Before the recent anti-pass legislation, every railroad in the country was deluged by applications for passes or free transportation. Invariably the applicants were well-to-do, and frequently they were wealthy. They would have scorned the suggestion that they should beg a few dollars from their neighbors in order that they might be saved the outlay necessary to purchase a railroad ticket, and they would have become indignant had their neighbors as a body collected an amount sufficient for such purpose. They would not have accepted a private benefaction, yet they incessantly importuned the railroads to furnish them, in some instances, transportation for a single trip, in more numerous instances, annual transportation. If the applicant for favor was not able to obtain a pass from the higher officials of the road, he did not hesitate to attempt to bribe the conductor of some train. A few years since it was not an infrequent sight to observe some well-dressed individual trying to pay the conductor of a passenger train a small sum of money on condition that no fare or ticket should be collected from him. And if the conductor refused to be bribed, he would be threatened with being reported to the higher officials of the road for some offence which would probably jeopard his livelihood.

Not a great while since, a well-to-do mechanic informed the writer that he had sent his son for a visit in a neighboring state, some five hundred miles distant. Becoming more confidential, he said that he had accompanied his son to the freight yards of the railroad which could carry him to his destination and had directed him how to "bum" his way. This mechanic was earning a good wage and was quite able to pay the cost of his son's transportation. He was a man of high honor in his private relationships. He prided himself upon the fact that he was indebted to no one, and that he would make no purchases upon credit. No extremity could have induced him to take advantage of any person, yet he had no scruples at exploiting the railroad company by inducing his son to steal transportation.

Corporations organized for the purpose of fire and accident insurance have a like experience with individuals of unquestioned integrity in their private business relations with other individuals.

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Insurance adjusters expect that those who claim damages because of some injury to person or property within the terms of the policies of insurance will be exorbitant in their demands for indemnity. If a fire has destroyed household furniture, the claimant insists that his goods were of exceptional value, many of them comparatively new. If a stock of merchandise has been injured, the goods which were totally destroyed always compose a large part of the claim, and these goods were of the finest texture and greatest intrinsic value. If an injury occurs to the person of one holding an accident policy, the period of convalescence becomes very prolonged, and even the high-minded citizen and respected church member will cling to his crutches and cane after the casualty has passed from the public remembrance and long subsequent to any evidence of continuing disability because of the mishap. It is, indeed, true that insurance companies frequently take advantage of those with whom they have contracted and are very ready to settle a just claim for much less than their liability; but it is even more evident that the average claimant is predisposed to magnify his injury because the indemnifying person is that artificial being called a private industrial corporation.

It makes little difference whether the corporation is foreign or domestic; in either case it is deemed a fit object for exploitation. The average person of high and unquestioned integrity, who insists upon paying the last penny of a debt to an individual, and who, when by mistake he obtains more of any commodity than he purchased and paid for, returns to the merchant and has the mistake rectified, has no such scruples when the other person against whose interests the mistake has been made is a private corporation. If the gas or water meter becomes disordered and fails to register the consumption of either of these commodities, the common man congratulates himself upon his good fortune. If the conductor on a street-car overlooks a passenger's fare, the individual seldom feels any obligation to call the conductor's attention to the oversight. If a carrier corporation desires to purchase a right of way, the individual owners of the land over which the right of way is sought at once connive to exploit the corporation to the utmost

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possible limit. An individual seeking a like accommodation is met in a fair and equitable spirit.

To any one who has given thorough consideration to the question of the relation of the modern private corporation having a capital stock to the public, it is indeed evident that the public has suffered largely, and that the present system of legal restraints is inadequate to safeguard the general welfare against corporate excesses; but it is also unquestionable that the modern capitalized corporation is subjected to gross injustices, and that the public attitude towards it is conscienceless. The public has been abundantly informed—we might say in many instances erroneously informed—of corporate abuses. In every instance in which an individual or the public at large is injured by the methods of corporate management, the injury is ascribed to the debased morals of the directors of the corporate enterprise, and this generalization is accepted as an axiom. Corporations are condemned before that most merciless of tribunals, public opinion, upon rumor and hearsay evidence, by means of hypotheses based upon generalizations which have no adequate foundation in fact. At the same time, our social psychology has not advanced sufficiently far for the individual or the public at large to be impressed by the flagrant injustices which are committed against the private corporation. All sense of obligation for the daring of industrial knights-errant, in risking their capital in new and promising enterprises which have resulted in great benefit to the public, is forgotten. It is to this question that this essay is addressed, with a desire to contribute, if possible, to the solution of this social enigma. The writer is not an apologist for the abuses to which the corporate organization of industry and commerce has led. But there is another side to the question which needs to be considered; and, what is of even more importance, it is needful that the sources of this antagonism should be discovered. For it is strange and unnatural that, while the capital of the nation which is devoted to industrial undertakings and commercial ventures insists upon placing itself under corporate direction, the people of the nation who are ministered to by the corporation, either by being its employees or by obtaining the comforts and luxuries of life

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through its agencies, should feel that it is a monster which is menacing national and individual welfare.

The cause of the misunderstanding and of the consequent antagonism between the industrial or commercial corporation and the public lies very largely in a failure to realize what the corporation actually is. A private corporation is a creature of legislation. It owes its existence to the fiat of some legislative body.[1] It is endowed with definite functions and is capable of exercising every power which may be necessary to attain the end for which it is created. The general legislative acts which are in force in every American state make it possible for any body of private individuals, not less than three in number, to organize a corporation by complying with certain prescribed legal requirements. The act of the incorporators results, in legal fact, in the creation of a new and separate personality. Before the act of incorporation has taken place, the business is under the private management of its owners, either in their individual capacity or as partners; after incorporation, the business is conducted by a new person, the corporation. This new person is possessed of rights and is capable of enforcing them in its own name. Its existence is clearly differentiated from that of the individuals who own the capital stock or who direct the corporate business. If it desires to enforce its legal rights, it sues in its own name; if it violates its contractual obligations or in any manner incurs liability, it is sued in its corporate name. It, and not its directors or stockholders, is responsible for its every act.[2] The liability of the stockholders is limited by the amount of the capital stock which they respectively own or, in instances in which statutes create a further liability, to an amount which practically never exceeds double the amount of the par value of the shares of stock which are possessed by each stockholder.[3] Apart from this statutory liability, stock-

[1] Cook, On Corporations, sec. 1.

[2] *Ibid.*, sec. 3. See also note. There is a tendency recently to hold the officers and directors of a private corporation liable for its malfeasances. But this tendency has not as yet developed important practical results, and the fact of incorporation acts as a shield against personal liability.

[3] *Ibid.*, secs. 212, 213.

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holders maintain an existence separate and apart from the corporation which they own and direct. The corporation acts through its board of directors and through its duly elected officers; yet these officials are mere agents, and they do not share the obligations and responsibilities of the corporation by their relationship to it.

These facts constitute a general statement of the elementary principles of the law of private industrial corporations in the United States. But to the common mind all this is mystifying. When an individual enters into a contract with another individual, each of the parties is personally responsible for the complete performance of his engagement. When, however, an individual enters into a contract with a corporation, the human being with whom he has dealt is not responsible. The corporation of course is responsible, if the person who contracted in its name was duly authorized so to contract; but if the corporation fails to perform its obligation, the individual finds the enforcement of the contract exceedingly difficult. Perhaps the corporation has a very limited capitalization and defeats its contract debt by passing into the hands of a receiver and pleading its statutory liability. The individual may then attack the stockholders of the corporation who have received all the benefits of its contracts, but he soon learns they are not responsible for its obligations beyond a limited amount which is proportioned to their several holdings of stock. If, however, the individual who has contracted with the corporation is delinquent, he is liable to the extent of his entire property holdings; and if his possessions are not sufficient to pay a judgment which may be obtained against him, his future business career may be jeoparded by a portion of the judgment which persists as a lien against him, which accumulates interest, and from which he can rid himself only by an appeal to a federal court for discharge in bankruptcy. And, again, in the enforcement of penal statutes the personality of the corporation is incomprehensible to the mind of the layman. If the individual violates a penal statute, he is subjected to punishment. He is indicted in the name of the state, and, if he is convicted, he is fined for his offence or is imprisoned for a period fixed by law. But when

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a corporation commits an offence which is penal, the officers and directors are not made to suffer by personal fines and imprisonment. The corporation may, indeed, be fined, but that means only that a portion of the annual dividends are used in defraying the demands of the court. The layman is not interested in the theory of corporation law but in actual concrete conditions. Here is a something which is created by the state and which enjoys privileges and immunities above and beyond those of any individual. The constitutions of every commonwealth provide that laws shall be general and forbid special legislation for privileged classes, but here is something which enjoys immeasurable privileges. Its existence is beyond the reach of penal statutes in anything approaching their practical application to every sentient individual. The state has made it possible for the corporation to repudiate its debts by pleading its limited capital stock and the statutory liability of its stockholders. The state permits persons to set at naught the criminal code in many of its aspects and provisions by merely conforming to a special law and conducting their business enterprises in a corporate name. If a war breaks out, the individual is subject to military service, but again the corporation is exempt. In all of these regards the law fosters corporate privilege at the expense of individual right and prerogative.

Yet no one has seen this privileged personality. A visit to the offices or workshops of a corporation reveals only the agents of the corporation: its president, secretary, treasurer, board of directors, and perhaps its stockholders. If one inquires for the corporation itself, he is informed that it has no tangible existence: that it exists "only in contemplation of law." Those who profit by its existence are generally men of wealth; it is directed by men of high standing in the community and leaders in the business world. Poor men seldom form a corporation for any purpose, and, if they purchase corporate stock, they wish only to invest surplus funds and have no thought or desire to participate in the corporate management. Being directed by men of wealth and of high social and commercial standing, the privileges of the industrial corporation interpret themselves to the common mind as the immunities and privi-

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leges of caste. It is a question of wealth against the people, and, more than this, it is irresponsibility and lawlessness which the people see on the one hand and on the other the strict accountability of every individual to the civil and criminal laws of the state.

The common mind associates the possession and enjoyment of personal rights with actually existing persons inhabiting visible and tangible bodies. In the Dartmouth College case, Chief Justice Marshal defined a corporation in an historic sentence as "an artificial being, invisible, intangible and existing only in contemplation of law."[1] This definition may be illuminating to members of the legal profession, but to the lay mind it is exceedingly nebulous. To the average layman, who represents at least ninety per cent of the American people, the prevailing conception of the industrial or commercial corporation is that it is a subterfuge of wealth to escape legal liability and to enjoy special privilege. "It is," as Henry Clay once defined it, "a splendid association of favored individuals, taken from the mass of society and invested with exemptions and surrounded by immunities and privileges."[2] The layman cannot conceive of the possession of rights excepting by actual human persons. The early English legist, Sir Edward Coke, stated that a corporation could not be excommunicated because it had no soul.[3] The reason for the latter part of this statement is overlooked, but the fact that a corporation has no soul is part of the everyday philosophy of the American people. And it is this soulless, conscienceless, invisible, intangible thing which has caused the common man to burst into unreasoning rage. When the corporation has committed a wrong, the community perceives only the corporation in striking contrast to the individual. The rail-

[1] Dartmouth College *v.* Woodward, 4 Wheaton (U. S.) 636.

[2] Speech in the United States Senate (1811) on renewing the charter of the first Bank of the United States.

[3] Blackstone, Commentaries, vol. i, p. 477. In Tipling *v.* Pexall, 2 Bulst. 233 (1613), the earliest concise legal description of the nature of the corporation as a person was given. The court said: "The opinion of Manwood, Chief Baron, was this, as touching corporations: that they are invisible, immortal, and that they had no soul. A corporation is a body aggregate; none can create souls but God; but the king creates them, and therefore they have no souls."

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way represents wealth of fabulous proportions; the employee who has been maimed for life or who has been killed was poor and his family is destitute. All the rich accumulations of racial sympathy are heaped upon the injured person and his destitute family, while the Berserker rage of our ancestors surcharges every thought when the corporation, which may or may not have been guilty of negligence, is accused of responsibility for the unfortunate happening. As between these parties, the American people, whether in conversation or as jurors in the trial of a damage action, cannot be impartial.

Much of this misunderstanding of the corporation by the people is due to the fact that private corporations are of very recent origin and have ever been associated with wealth and privilege, and also because personal rights are likewise a recent acquisition and have been achieved by a race-long struggle of the people against vested interests. It is true the historic struggle for the common right by Anglo-Saxon peoples was directed chiefly against what was termed the royal prerogative; nevertheless it was a struggle of the common people to have their personal rights guaranteed. The Bill of Rights, adopted after the English Revolution of 1688, was the first general embodiment of the rights of man as they had been wrung from the vested interests represented by the royal prerogative during an intermittent contest extending over five centuries. Upon the accomplishment of the American Revolution there was a universal demand, not only that the state constitutions should be prefaced by bills of rights, but that the national constitution also should include these safeguards. Eminent constitutional lawyers might argue that, as the government originated in the will of the people, a bill of rights was superfluous; the people were not convinced.[1] They knew from the experience of long

[1] In the convention called for the ratification of the federal constitution in Pennsylvania, James Wilson argued that a bill of rights was superfluous because the people were above the constitution and were the source of its authority. James Wilson, Works (Andrews' ed.), vol. i, p. 543. Webster, however, adopted the more popular ground, and said: "The Habeas Corpus Act, the Bill of Rights, the trial by jury, are surer bulwarks of right and liberty than written constitutions." Daniel Webster, Works (18th ed.), vol. ii, p. 392.

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struggle how difficult had been the attainment of every increment of personal right, and they could not be induced by legal quibbling to jeopard their gains and perhaps confront a renewal of the struggle. Now the English Bill of Rights and the several American bills of rights are alike in this: that their chief intent is to safeguard persons from the tyranny of government. And the person whom the bills of rights seek to defend is always the living, breathing, human personality which we call man. The bills of rights constitute the legal formulary of man's emancipation.

In recent corporation law, our courts of highest resort have decided that the modern private corporation having a capital stock is a person within the terms of the bill of rights and is entitled to all the privileges and safeguards which that instrument contains. This may be good law, but the common man cannot perceive how an instrument which was instituted solely for the benefit of man can be given such broad application as to heap its benefits and favors upon this something which even the courts of law have described as "an artificial being, invisible, intangible and existing only in contemplation of law." And the American citizen is very apt to conclude that this is but another instance in which the trophies of popular victory have been appropriated by the possessors of large privilege.

The attitude of antagonism which the average man assumes toward the modern industrial corporation having a capital stock is enhanced by the added fact that the personality of the corporation is quite as enigmatical to the stockholders and directors of the corporate enterprise as to the people at large. If the people are utterly unable to comprehend the corporation as a person entitled to all the legal rights of persons, the individuals who profit from the corporate organization and management of industrial or commercial undertakings fail to realize that the private corporation is a person under moral obligations to itself and to society. The directors of a modern private corporation are very glad to promote their pecuniary interests by claiming that the corporation is a person, within the meaning of constitutional and statute law, and that it is entitled to all of the privileges and immunities with which the law has endowed the

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people of the republic or the commonwealth. But in its relations with society the directors of the modern private corporation having a capital stock are too often willing to permit it to enact the rôle of freebooter. The public are well informed of the questionable methods which many industrial corporations adopt and pursue in order that they may be pecuniarily profitable; it is known how mercilessly they grind a competitor until he is forced into bankruptcy, or until he adopts the only alternative, that of selling to the more powerful rival at a price which that rival fixes. Employees of these vast industrial plants are frequently compelled to live in places isolated from social advantages, in what are called factory towns, in small and ill-kept houses of no architectural pretensions. Their wives and children are compelled to live in squalor, and the workmen themselves are forced to labor such long and continuous hours that life loses its brightness and becomes a perpetual gloom. They threaten to become a permanently dependent class, of striking likeness to the ancient serfs. The public observes that the corporation has but a single evident aim—to make money; that it has no interest in its employees but as automata; those who profit from the acts of the corporation are those who already are wealthy and privileged and who are likewise prominent in social and religious circles. New stockholders in an industrial corporation are not interested in the venture beyond its investment phase; they have no sense of responsibility to society. If the business enterprises were conducted personally or as a partnership, in the ownership of individuals and under the direction of the owners, these individual owners and employers might appreciate that they were the social guardians of their employees and of the families of their employees. But all this is lost in the organization and direction of industry under the merely statutory restraints which are imposed upon the modern private corporation.

The chief reasons, then, for the attitude of antagonism assumed by the average American citizen toward the private industrial corporation are the fact that the common mind cannot appreciate that the corporation is a person, which has a right to enjoy all the privileges and immunities of persons, and

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the complementary fact that the stockholders and directors of such a corporation do not appreciate that it is a moral person under a profound obligation to promote the social well-being. That is, both the corporation itself and society at large are as yet unacquainted with its rights and obligations as a person. It is still a person under legal disabilities: it is, if you please, a ward of society. Thus far it has proven incapable of exercising its vast potentialities for the social betterment, and, like all persons who have not attained full capacity, it needs the careful guidance and control which the guardian is presumed to bestow upon his ward. Yet even this status of the corporation, as a person not yet fully admitted to the enjoyment of legal rights, is difficult of practical application. The wards of society whom we immediately recognize are children, the insane and imbecile and, in some states, married women and spendthrifts. They are those who, from lack of experience or from lack of normal faculties are incapable of attending to the ordinary affairs of life for their own benefit and for the well-being of the community. But how impossible it is for the common man to take such a view of the private industrial corporation! He regards it as Frankenstein regarded the monster which he had called into existence. The wards of society, as they are generally known, are weak and dependent, but this fearful thing is so mighty as to be frightful, and every man feels his right, and perhaps his life, jeoparded by its existence.

But in the truest sense the corporation is, and should be, a ward of the state. It is not yet conscious of the implications of its personality; it does not recognize the seriousness of its social obligations. And the excesses of which it is guilty are largely due to the fact that, although thus far it has manifested little moral sense, it has been permitted to move and act freely in the social and industrial world and to project upon society its debased and irresponsible standards. And for the individual there is need to recognize that the corporation is a person; that so long as it does not develop a sense of moral obligation and recognize its social indebtedness, so long as the legal conception of the corporate personality permits a riot of privilege and excess together with a minimum responsibility, the guardian-

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ship of statute law is indeed necessary in order that the public may be protected; but that, in spite of its excesses, the corporation has rights which society should respect.

The true adjustment of the modern industrial corporation to society, the recognition on the part of the individual of the rights of the corporation and a willingness that on all occasions strict justice shall be done it are undoubtedly matters which will be realized only in the distant future. But quite as undoubtedly the causes of the misapprehension and of the deep-seated antagonism between American laymen and the private corporation, its directors and its stockholders lie in the enigmatical personality of the corporation—a personality certainly existing, but not yet arrived at a maturity of its powers nor aware of its profound social obligations.

JOSEPH B. ROSS.

LAFAYETTE, INDIANA.

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CONGRESS AND THE SUPREME COURT

MAY Congress pass a law that is generally believed to be contrary to the decisions of the Supreme Court? Should it, if it purposes to enact such a law, first secure the amendment of the Constitution? This question, of so much significance to the relations of Congress and the Supreme Court—perhaps of even greater significance to the law and custom of amendment of the Constitution—was debated at length in the Senate during the closing days of June and the opening days of July, 1909. It is the purpose of this article to present and discuss the arguments advanced in the course of that debate.

Earnest discussion of the question was inevitable when it became apparent that strong support was assured for the Cummins-Bailey measures providing for an income tax, for these measures were in essential respects almost identical with the income-tax law which in 1895 the Supreme Court had declared to be unconstitutional. The debate had not gone far before it was generally assumed that the Senate would pass an income-tax law unless a vigorous flank movement were started. Thereupon the corporation-tax amendment to the tariff bill and the resolution for amendment of the Constitution so as to permit the levying of income taxes were introduced. It was soon evident that they would pass—a fact which may have served to make the debate as a whole somewhat less intense than it would otherwise have been. But as it stands, it is undoubtedly of first-rate importance.

In the discussion of this question, several very distinct positions were assumed by the senators most active in the debate. Senator Root, of New York, maintained that the passage of an income-tax law would derogate from the influence and authority of the Supreme Court and would be a violation of American principles of political science. Senator Hughes of Colorado took the contrary position: contending, in effect, that the integrity of legislative authority demanded that Congress must

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have free scope to act upon such a subject. Senator Heyburn of Idaho, following the tendency to take a legal view of the question—a tendency most prominent throughout the debate—argued that a judicial precedent was a bar to legislative action, and that Congress was concluded by the decision of the court. Senator Cummins, of Iowa, on the other hand, taking the more liberal legal position, maintained that a judicial decision could have no such effect. Other members of the Senate made important contributions to the debate; but, as the senators named fairly typified the leading points of view, it is needless to go beyond their arguments.

The debate divides itself into two parts: that in which the question was considered as one primarily of the relations of the different departments of government and, secondly, that in which its legal aspects were more emphasized.

I

The argument made by Senator Root followed familiar lines. In some of the most forceful passages of his address of July 1, he said:

> But, Mr. President, what is it that we propose to do with the Supreme Court? Is it the ordinary case of the suitor asking for a rehearing? No; do not let us delude ourselves about that. It is that the Congress of the United States shall deliberately pass, and the president of the United States shall sign, and that the legislative and executive departments thus conjointly shall place upon the statute books as a law a measure which the Supreme Court has declared to be unconstitutional and void. And, then, Mr. President, what are we to encounter? A campaign of oratory upon the stump, of editorials in the press, of denunciation and imputation designed to compel that great tribunal to yield to the force of the opinion of the executive and the legislative branches. If they yield, what then? Where then would be the confidence of our people in the justice of their judgment? If they refuse to yield, what then? A breach between the two parts of our government, with popular acclaim behind the popular branch, all setting against the independence, the dignity, the respect, the sacredness of that great tribunal whose function in our system of government has made us unlike any republic that ever existed in the world, whose part in our government is the greatest contribution that America has made to political

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science. I cannot see, Mr. President, in this proposal any result short of a most serious injury to that power in our system which is the weakest, which controls no purse and orders no soldiers, but upon respect for which rests the perpetuity of our institutions and the distinction between the American Republic and those war-torn republics of the past that have so long been the objects of compassion and commiseration.[1]

Mr. Root could not have occupied broader ground than this, for he implied that, when the Supreme Court renders a final decision, neither the executive department nor the legislative department may properly question it or seek to have it set aside. As departments of the government, they may not even seek a "rehearing" upon it. And, apparently, it makes no difference that the court has decided the other way a dozen times before.

But Senator Hughes also took familiar ground. He maintained that the decision of the Supreme Court should not be allowed to stand in the way of legislation, if Congress desired to enact an income-tax law. Both to those who have and to those who have not "got beyond Montesquieu," his argument will make an appeal, whether or not it persuades them. It was in the course of his vigorous attack upon the corporation-tax amendment to the tariff law that he touched upon the division of powers. First he asserted Congress's independence of the executive. Referring to the corporation-tax amendment, he asked:

Do we still exist in three co-equal departments? Do we still have the legislative, judicial and executive co-equal divisions of the government, or is the legislative swallowed up now by the executive? Have we

[1] On this point Senator Aldrich of Rhode Island, who took a leading part in the tariff debate, occupied much the same position as Senator Root. He was openly hostile to the income-tax amendment to the tariff law that was proposed by Senators Bailey and Cummins, and he declared that he would vote for a corporation tax "as a means to defeat the income tax," because the income tax would be "sure in the end to destroy the protective system." Mr. Root, on the other hand, expressed his sympathy with the idea of an income tax, declaring that "when it is necessary that the government shall have more money than it can obtain by ordinary means of taxation, I believe that the income tax, with all its inconveniences and objections, is fair and just as a means of distributing the burdens of taxation." *Congressional Record*, vol. 44, pp. 4022, 4023, 4067.

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reached the point where the president directs the attorney-general to draw a law which Congress, without inquiry or changes, must adopt, even if discussion should disclose faults and objectionable features?[1]

And the relations of Congress to the judiciary were, in his opinion, of the same or of a similar kind. Professing his belief that it was "hardly good form" for a senator to get into the habit of criticizing the Supreme Court, he declared nevertheless that he cherished the belief that the income-tax law of 1894 was constitutional, and that Congress was not "forever precluded from inquiry into that question."[2] Referring to the phrase in the corporation-tax amendment which described the tax as an "excise tax," he expressed the opinion that he would be dealing with the Supreme Court with "more respect" if he should frankly say: "The decision rendered by this court, by the casting vote of one hesitating judge, ought to be reviewed by you, and I ask you to do it," than if, "by writing a phrase like that into legislation," he should "give them a 'short cut across the lot,' afford them an opportunity to do by indirection the thing which they would not openly and directly do."[3]

What are the relative merits of these views? It is perhaps true that the position assumed by Senator Root has become the orthodox one, though the majority of the Senate seemed prepared to prove themselves heterodox. Does Senator Root's position then find any sanction in the Constitution itself? Is it vital to the principles of our government?

There is no express provision in the Constitution that limits the legislative power of Congress as regards the reënactment of a law declared by the Supreme Court to be beyond the competence of Congress. There is no clear indication that Congress may not pass the same law in the same terms if it sees fit. Whatever may be the implications of the Constitution, its express provisions leave the legislature free to test again and again the convictions of the Supreme Court upon one and the same subject.

When, however, the implied provisions of the Constitution are

[1] *Congressional Record*, vol. 44, p. 4357.

[2] *Ibid.*, p. 4360. [3] See also Senator Borah's remarks, *ibid.*, p. 4249.

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considered, the question at once arises whether the division of the government into three branches, the legislative, executive and judicial, imposes upon the legislature limitations which would inhibit the reënactment of a law that the judiciary has pronounced unconstitutional. The Constitution of the United States does not contain the "distributing clauses" which are found in the constitutions of certain states and which expressly declare that no one of the three departments of the government shall exercise the powers of the other two or of either of them. Instead, it provides that the executive power shall be vested in the president, the legislative power in the Congress, and the judicial power in the Supreme Court and inferior courts. But this method of distribution has been held to be no less effective than the other to secure a separation of powers. The operation of the two methods has generally been deemed to be identical.[1] Hence, if it be shown that either in theory or in law the principle involved in either kind of constitutional provision has been so applied as to prohibit the legislature from passing such a law as that which we have under consideration, we should be helped in the solution of this question.

What assistance is given by the theory of the separation of powers? Certainly little or none on the positive legal side. But it may be of some assistance to know that even in theory it has not only been impossible to arrive at any clear definition of the legislative, executive and judicial powers, but that it has been found inexpedient, not to say impossible, to attribute exclusively to any one of the three departments the powers that peculiarly appertain to it. Practically the same conclusion is reached by those writers, among the most authoritative on the science of government, who of recent years have declared that there are not three powers of government but only two—that whatever is done by any branch of the government is either an act expressing the will of the state or an act executing it—for these writers also admit the inexpediency of totally denying to the executing power the right to express the will of the state or of forbidding

[1] On the division of powers, see Frank J. Goodnow, Principles of the Administrative Law of the United States, book i, chapters ii and iii.

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the expressing power ever to execute that will. From these tendencies in political theory we may perhaps conclude that the time-honored philosophical doctrine of the separation of powers, whether in its old form or in its altered guise, not only has no objection to offer to congressional action such as we have under consideration but may be easily construed to approve it. If the reënactment of an "unconstitutional" income-tax law, for the purpose of testing its constitutionality anew, be an exercise of the legislative power, the theory would amply approve it. If it be something else—no one has adequately shown that it is anything else—the theory might still support it.

But there is more in the question than this. The separation of powers has been made a part of our constitutional law. The constitutional provisions dividing the powers of government are, indeed, like the theory of the subject in one respect: they do not define any one of the three powers. Moreover, the definitions pronounced by the courts are often conflicting. But our courts are pretty well agreed upon a few general principles. They hold that "the action of any one of the departments of the government must, in order to partake of the nature of the department so as to satisfy the provisions of the constitution requiring a division of powers, be completely independent of the influence and control of any other department."[1] What is meant by the expression, "completely independent of the influence and control of any other department?" Not only is it not to be taken in a literal sense, but every constitution in the country makes express and direct exceptions to it. So far as the general rules evolved by legal interpretation are concerned (the rest of them need not be considered, for they have even less application to the question in hand than that which has been quoted), they place no limitation upon the power of the legislature to enact and enact again a law which that body deems desirable and within its just competence.

With the more specific rules, the question becomes more concrete. Legislatures have the power to enact declaratory statutes, a declaratory statute being one which declares what the

[1] Goodnow, *op. cit.*, p. 34.

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law already is.[1] In thus interpreting preëxisting law, the legislature may, in effect, enact a retrospective statute, the interpretation relating back to past events and conditions. Not only is retrospective legislation admissible, in cases in which it is not expressly prohibited, but one of the legislature's most beneficent powers is exercised in the curing of defects, especially those defects that result from technical irregularities. But legislative power of any kind—power to declare the law, to enact retrospective laws, to cure defects, or any other power—does not, under the American constitutional system, embrace the power by legislative mandate to foist a judicial construction upon the courts. Nor can a legislature, by an act of its own, declare a statute to be either constitutional or void.[2] It may repeal or amend, but repeal or amendment is not judicial construction. Would the enactment of a new income-tax law have been an attempt at judicial construction or an effort to declare constitutional that which the Supreme Court had declared to be unconstitutional? Plainly, it would have been neither the one thing nor the other.

But some of the courts have rendered decisions which might seem to be very much more in point. Thus, it has been held that an act reviewing and annulling a judgment is unconstitutional; that an act of the legislature opening judgments is the exercise of judicial power and therefore void; that a legislature cannot reopen or set aside a final judgment nor compel the courts to do so, no matter how erroneous this judgment may

[1] The legislature cannot declare what a law was, but can declare what it shall be. Ogden *v.* Blackledge, 6 U. S. (2 Cranch), 272. Some of the cases slightly modify this rule, but the modifications are immaterial and insignificant.

[2] The Supreme Court of the United States has held that an act of Congress declaring a bridge over the Ohio River at Wheeling a legal structure, after that court had ordered its abatement as a nuisance, is unconstitutional as an exercise of a judicial and appellate, and not a legislative, power. Pennsylvania *v.* Wheeling *etc.* Bridge Company, 59 U. S. (18 Howard), 421. This action, which was in effect an attempt to change completely the legal status of the bridge as fixed by the court, affords an excellent illustration of what the legislative right of reënactment does not include. It includes the power to set in operation the machinery which will cause the courts to construe the law anew, not however the power to impose a new construction upon the courts.

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be.[1] The passing of an income-tax law, however, would not violate any of these decisions. Such legislation would neither open, annul nor reverse a judgment, nor would it compel any court to do any of these things. It would have no reference to any judgment; and though a court might destroy the authority of its previous decisions by reversing itself on a new case brought under a new law, such a result could not be attributed to legislative interference with a judicial finding.

Again, it has been held that a legislative act, directing the levy and collection of a tax which has already been declared illegal by the judiciary, is inoperative and void as an attempted reversal of judicial action by the legislature.[2] Would not the enactment of a new income-tax law amount to the legislative direction that a tax declared to be inoperative and void should be levied and collected, and as such would it not amount to reversal of judicial action? The sufficient answer to this seems to be that at the most the legislature would be seeking to induce, not to compel, a judicial reversal of judicial action. Such a law would not deny to any taxpayer any one of his means for testing its constitutionality. Not a cent could be obtained from such a tax if the court forbade.

[1] See cases cited in William Bondy, The Separation of Governmental Powers, ch. x, especially at p. 99. See many other cases to the same or similar effect in American Digest, 10, 1314 *et seq.*

[2] Mayor *v.* Horn, 26 Md., 194; Butler *v.* Supervisors of Saginaw, 26 Mich., 22; cited in Bondy, *op. cit.*, p. 99. In the first of these cases the court said, "When this law [the second enactment] was passed, the rights of the parties under the law of 1856, ch. 164, had been judicially determined by this court. In the case of Porter *v.* the Mayor and City Council, this court had adjudged that the parties assessed under that law were not liable for the assessments and had perpetually enjoined the city authorities from proceeding to collect them; and yet the law of 1864, ch. 344, passed after that decision, expressly authorized those authorities to proceed and collect them. It adjudged those parties to pay that which this court, in a regular proceeding, determined they were not bound to pay. It in effect, and that most plainly, reversed the judgment of this court. That which this court said was illegally done, or done without authority of law, or in contravention of law, and that the parties could not be assessed for, this Act of Assembly clearly declares shall be paid for by the parties, although they were relieved from that payment by the final determination of this court. There certainly could not be a more plain assumption of judicial power by the legislature, than was exercised by the enactment of the law of 1864, ch. 344, and as such, this law must be pronounced inoperative and void."

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II

The debate in the Senate on the narrower question, whether the decisions of the Supreme Court should be regarded as binding, without special reference to the relations which that tribunal bears to the other departments of the government, had to do principally with the doctrine of *stare decisis*. During the speech on the income-tax bill delivered by Senator Cummins on June 29 and 30, this phase of the question was thrown into the sharpest relief.[1] After passing the income-tax cases in review, Senator Cummins declared that for a hundred years there had been "a continuity of decisions" sustaining the vital power of Congress to levy a tax "upon property, upon income" without apportionment, and holding that only a land tax needed to be apportioned. He believed that he had a better right to appeal to the rule of *stare decisis* than they who contend that the latest income-tax decision of the Supreme Court is conclusive and binding.

> I have a better right to appeal to the history of a hundred years and to the often repeated decisions of the Supreme Court of the United States for the purpose of establishing the stability of constitutional interpretation and construction than has any man to the single case decided by a divided court; decided not only by a divided court, but by the opinion of one member of that court; and not only so—and I say it without the slightest reflection upon his conduct—who changed his views with regard to the subject between the original hearing and the rehearing.[2]

Mr. Cummins declared that he believed that the sentiment which suggests that it is an indelicate and improper thing for Congress again to ask the Supreme Court to review the constitution in this respect "is a morbid sentiment, growing out of the confusion of two perfectly distinct principles, the principles of *res adjudicata* and *stare decisis*, the one requiring instant obedience to the final decision of a court, the other being 'a rule of stability.'" The records of the supreme courts of the states and

[1] *Congressional Record*, vol. 44, p. 4141.

[2] *Cf.* Senator Bailey's remarks, *ibid.*, p. 4025.

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of the United States, he said, are full of instances in which they have reversed themselves. "Unless good reason be shown, they will follow their prior opinions . . . upon the subjects involved; but the rule *stare decisis* has never yet forbidden a litigant to appeal to any court for a reversal of a rule established in some decision to which he was not a party."[1]

Senator Heyburn, who occupied the more rigid position on this question, maintained that the rule of *stare decisis* was that every presumption would be entertained against the propriety of reversal, "and the reason for reversal must be overpowering and all-compelling. A court never does reverse itself except

[1] In Knox *v.* Lee, 12 Wallace, 457 (in which the Supreme Court reversed its legal-tender decision in Hepburn *v.* Griswold, 8 Wallace, 603), Justice Strong, delivering the opinion of the court, declared that "it is no unprecedented thing in courts of last resort, both in this country and in England, to overrule decisions previously made" (p. 554). Chief Justice Chase, on the other hand, declared in his dissenting opinion that the reversal was "unprecedented in the history of the court" (p. 572), and Justice Field seemed to be of a similar opinion. But see the opinion of the court by Chief Justice Fuller in Pollock *v.* Farmers' Loan and Trust Company, 157 U. S., 429, at p. 575, where he discusses a case of Supreme Court reversal, that in the Genesee Chief, 12 Howard, 443, 455, opinion by Chief Justice Taney. The statement of the court in the Pollock case concerning *stare decisis* of course has particular pertinence here. "Doubtless, the doctrine of *stare decisis* is a salutary one," said the Chief Justice, "and to be adhered to on all proper occasions, but it only arises in respect of decisions directly upon the point in issue. . . . Manifestly as this court is clothed with the power, and intrusted with the duty, to maintain the fundamental law of the Constitution, the discharge of that duty requires it not to extend any decision upon a constitutional question if it is convinced that error in principle might supervene." These words, guarded as they are, are significant. The Supreme Court, of course, seldom reverses itself directly. Like other courts, it "distinguishes." See Munroe Smith, "State Statute and Common Law," POLITICAL SCIENCE QUARTERLY, vol. ii (1887), p. 121.

The question whether the Supreme Court has changed its mind on the income tax *since* its decision of 1895 is not considered in this article, though it was earnestly contended by some of the participants in the debate that this was the case, and decisions were cited in the attempt to prove it. Of course, the arguments of those who contend for a new income-tax law at least implied that the court would now prove to be of a different mind on the question. Nor is the extended debate as to the constitutionality of the corporation tax here considered. Leading advocates of an income-tax law maintained that, if the proposed income tax was contrary to the decision in the Pollock case, the corporation tax was also contrary to that decision; and not only this, but that it was unconstitutional on other grounds. Just how much effect this had in strengthening their stand on the income tax, by making it appear that they were contending for a law that was no more questionable than that contended for by the corporation taxers, it would be difficult to estimate.

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where the conditions have changed to such an extent that they are compelled to give a different application to the rule of law." To this Senator Cummins replied that he sympathized with a part of this suggestion. The Supreme Court ought not to reverse a former opinion for light or trivial reasons, but when the error is "so palpable as it is in the present case," he had "no doubt that when the question again reaches the Supreme Court it will be ruled in harmony with the principles of one hundred years of judicial decisions."[1]

The different statements of the rule of *stare decisis* in the Senate reflect the different statements to be found in decisions of the courts. In the courts, indeed, the antithesis as represented by isolated cases is much more pronounced than it is in the Senate debates. Some courts state the doctrine in terms that are even more hard and fast than those employed by Senator Heyburn. Some give a much more liberal interpretation than that which Senator Cummins sustained. Decisions may be found which declare that cases adjudged by courts of final resort settle the law, whether right or wrong, and that they will not be overruled.[2] But this is the exception. The general rule is that the maxim *stare decisis* is not imperative,[3] even where the facts are identical. Precedent without sound reasoning is not binding,[4] and grave and palpable error will cause reversal.[5] If a member of the Senate, believing a decision of the court unsound in reasoning or erroneous in its findings, seeks, in a just and proper manner, to have the identical question once more tested, he is doing only what counsel for litigants have done, and what the courts have countenanced counsel in doing, in a multitude of cases. He is doing what the Supreme Court

[1] Some of the Senators did not deal with the Pollock decision quite so respectfully. On the other hand, some who favored the proposed income-tax law would not have taken quite so pronounced a position on this particular phase of the question as Senator Cummins. This is possibly, though not certainly, true of Senator Borah, earnest champion of the income-tax though he was. See *Congressional Record*, vol. 44, p. 4249.

[2] South *v.* Thomas, 23 Ky., 59; Tribble *v.* Taul, 23 Ky., 455.

[3] Kneeland *v.* City or Milwaukee, 15 Wis., 497.

[4] State *v.* City Council of Aiken, 42 S. C., 222.

[5] Ellison *v.* Georgia Railroad and Banking Company, 87 Ga., 691.

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of the United States itself has equally countenanced.[1] All the more would such a senator be justified in seeking the passage of a law which was not in all respects the same as that which had been declared to be unconstitutional. There is no corollary of *stare decisis* that has greater authority or a securer footing than this: that precedent does not bind unless the facts in the two cases are in all essential respects identical.

The question whether the doctrine of *stare decisis* does not have a different application in constitutional questions, or some of them, from that given to it in ordinary questions, though this might seem to be the key to the whole problem, was not distinctly raised in the debate. This failure is not surprising; for this question has been the subject of only the slightest consideration, either in legal or political literature. It is, however, of so much importance that, little as it has been considered, it should not be passed over.

Moved by the exhibition of judicial vacillation which the Supreme Court gave in the legal-tender cases, Mr. Emory Washburn, professor in the Harvard Law School, some thirty years ago attempted to answer the question: "Whether there is no way of determining, definitively, what powers the Constitution delegates to and confers upon the separate branches of government into which it divides its functions."[2] He argued that, as the framers of the Constitution could not anticipate everything that would need interpretation in the language they used, they provided for a means of "umpirage"; that to supply every defect in dividing the powers of government among its several proprietaries they delegated to the judiciary the author-

[1] It may be said further, that courts do not respect the authority of a single decision as they do that of a series of decisions. Some courts seem to hold that it takes two decisions to make one precedent, three or four to give it strength. See Griffin *v.* Creditors, 6 Rob. (La.), 225; Judson *v.* Gray, 11 N. Y., 408. The pertinence of these considerations is apparent when it is remembered that the Pollock decision not merely stands by itself, but that it perhaps reverses a series of decisions —a point on which Senator Cummins laid much emphasis. See *Congressional Record*, vol. 44, pp. 4139–4141. But Chief Justice Fuller, who wrote the opinion of the court, did not admit that this was true. See Pollock *v.* Farmers' Loan and Trust Company, 157 U. S., 429, especially at p. 579.

[2] *Journal of Social Science*, 1876, vol. vii, pp. 140 *et seq.*

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ity to trace out "the lines of division." "When any one of these lines has been made out and its monuments established, this power of arbitrament has been exhausted; the agent as to that specific part of his duty is *functus officio*." And he implied that the Supreme Court, in making such delimitations of constitutional authority, was perhaps exercising "a ministerial function, in the performance of which judicial forms and rules were to be observed; but, when executed, it becomes a finality like other ministerial acts." These views are ingenious, but they have been echoed even less than they were anticipated. They are practically without support. However, in maintaining that there is no necessary analogy between the function of the court in deciding such constitutional questions and its function in deciding ordinary questions, he expressed a view that may conceivably become of much importance—a view which, as we shall see, can be held by those who wholly disagree with his opinions in other respects.

In 1889, Mr. D. H. Chamberlain, author of a work on *Stare Decisis*, was inspired by Mr. Justice Matthews of the Supreme Court to make a much narrower examination of the matter.[1] He attempted to find an answer to the question whether the doctrine of *stare decisis* "ought to be, or is, less strictly applied to constitutional questions than to questions of mere private rights." The peculiar form in which the question was cast was due to the fact that in the legal-tender case of Knox *v.* Lee[2] two of the justices had given opinions which might be construed to intimate that the doctrine need not be applied strictly in constitutional questions. Mr. Chamberlain concludes that

> It must be conceded always that if a decision is wrong, clearly wrong in principle or in the facts, . . . it may be or even ought to be reversed. No less an exception to *stare decisis* seems tenable or practicable. This is as true, it seems in reason, of public cases as of private cases, of cases of constitutional law or power as of cases of private right, and no more so.

[1] D. H. Chamberlain, "The Doctrine of Stare Decisis as applied to Decisions of Constitutional Questions." 3 *Harvard Law Review*, 125.

[2] See *supra*, p. 29, note.

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If the rule is not more applicable, is it less applicable to those of the former class than to those of the latter class? The reply is made: "We know of no authorities which have discussed or answered our inquiry; we do not even know that it is regarded in the forum of the profession or of jurists and judicious law-writers as an open one"—a statement that is eloquent of the paucity of the material on this entire subject.

In striking contrast with the views of Mr. Washburn and Mr. Chamberlain and in diametrical conflict with the former writer, Mr. Munroe Smith has indicated, at least by implication, that the Supreme Court not only should be, but is, less bound by its precedents than other courts.[1] The law-making power of the courts, he says, has been increased by vesting in them the interpretation of written constitutions, and by virtue of its interpreting power the Supreme Court has reconstructed the federal Constitution in many respects. "The wonderful thing about our history is that the Constitution should have been adapted to the great transformations in our national life without *coup d'état* or revolution and with only one civil war." It is because the Supreme Court has so skilfully adapted it to our changing needs.

Looked at from this point of view, the entire problem before us seems to resolve itself into the question: what is the function of the Supreme Court in its relation to the Constitution? If that function is one of conservative adaptation of the Constitution to changing needs, there can hardly be any doubt remaining of the propriety of legislation which calls upon the court to reconsider its decisions, to adapt its opinions anew. It is not necessary, however, to secure adhesion to such an interpretation of the function of the Supreme Court in order to uphold this right of Congress. As we have seen, it is defensible upon the grounds upon which it was specifically challenged in the Senate debate—the grounds of division of powers and *stare decisis*. As this paper was suggested by that debate and aims to follow it closely, it would be out of keeping to make a further digression here and to go into this most interesting but somewhat independent question.

[1] Munroe Smith, "Judge-made Constitutional Law," *Van Norden's Magazine*, 1909, pp. 28 *et seq.*

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The contentions of those senators who maintained that the income-tax bill should not be passed were impressive. Within limits, they may be regarded as controlling. But, beyond those limits, it is hard to see how they can derive any validity from the theory or the law of the separation of powers or from the doctrine of *stare decisis*. When a senator says that the legislature should show all possible respect and reverence for the Supreme Court of the United States, no one can dissent. When he maintains that that great tribunal should not be made the football of mob opinion, no one can question the justice or wisdom of what he says. But when he argues, in effect, that the legislature should surrender to the courts its freedom of legislating according to its lights, while some will share his convictions and believe that he states them none too strongly, to many it will seem that he indulges in a species of judicial idolatry.

It is to be hoped that the knowledge of this memorable debate will be widely disseminated; for it should do very much to put us on inquiry concerning the true relations of the legislature to the courts and the relation of these two branches to the constitutional amending power. Those who have much at heart the interests of democracy are to-day deploring the inelasticity of our constitutional system, declaring that the amendment of the constitution, even when most desirable, is all but impossible—a result which the Fathers could not have intended. But if we come to believe that the Supreme Court in its construction of the Constitution is not infallible, and that, when convinced that this court has mistakenly voided a desirable law, the legislature should secure that law's reconsideration, we may find ourselves with a more responsive form of government. If the legislature reënacts a law once declared to be unconstitutional and the court again pronounces it void, will not both the legislative and the popular aptitude for direct amendment of the Constitution be increased? For if, after a second adverse judicial decision, the legislature is of the same opinion, it will, with much less hesitation, call into operation the machinery of amendment; and it will be likely to find the people back of it.

HAROLD M. BOWMAN.

NEW YORK CITY.

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THE PAYNE-ALDRICH TARIFF

The Dingley Act and the demand for revision

NO American tariff act has ever been universally satisfactory to the American people. Dissatisfaction has been openly expressed, as a rule, only by members of the party out of power; but at times there has been more or less overt rebellion within the dominant party which framed the act. The Dingley tariff act of 1897 was, on general principles, unsatisfactory to the Democrats. At first they found fault with it because it did not produce adequate revenue; as soon as the law got into working order, their cry was that the revenue was excessive and that the people were being robbed. In the years immediately following the passage of the law, the marked reorganization of industries into large corporations or trusts gave the Democrats their most effective party slogan, that the "tariff is the mother of trusts." From the Republican standpoint the Dingley law was, on the whole, a successful party measure. Better financial and industrial conditions followed the passage of the act, and tariff agitation was side-tracked by the war with Spain, which forced new problems to the fore.

About 1902, however, tendencies toward revision began to show themselves in the Republican ranks. State Republican conventions of that year, while re-affirming the policy of protection, asserted that they favored "such changes in the tariff from time to time as may become advisable through the progress of our industries and their changing relation to the commerce of the world." This new tendency was spoken of as the "Iowa idea"; but it was not peculiar to that commonwealth, as many other state Republican platforms, including those of Indiana, Kansas, Minnesota, Connecticut and Massachusetts, contained similar planks. The Idaho Republican platform was even more emphatic, stating that it favored "a revision of the tariff, without unreasonable delay, which will place upon the free list every article and product controlled by any monopoly and

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such other articles and products as are beyond the need of protection." In the national campaign of 1904 the tariff issue was dodged by the Republicans, their platform mildly stating that duties should be changed only when industrial conditions made such changes absolutely necessary. After 1904, however, the new Republican sentiment began to show itself even in Congress. The Massachusetts Republican platform of 1905 stated:

> We approve the position taken by our senators and representatives at the last session of Congress in favor of present action, and we hope that they will continue to press upon their party associates in Congress from other states the wisdom of the consideration of the tariff for the purpose of revision and readjustment.

The Massachusetts "idea" was reasserted in 1906 and in 1907. Similar though less positive declarations appeared in other state Republican platforms. The Nebraska Democratic platform of 1907, inspired by the probable Democratic nominee for president, declared very positively in favor of immediate tariff revision. The Republicans met the issue by affirming in their national platform of 1908 that, if they should be successful at the polls, a special session would be called by the new president for the purpose of revising the tariff.

It appears accordingly, that there was no really general Republican demand for tariff revision until after the presidential election of 1904. In the following years revision was demanded because of (1) the rise of wages and the monopolistic utilization of raw materials; (2) the hampering of foreign trade by increasingly hostile foreign tariffs; (3) the inadequacy of the tariff administrative machinery; (4) the general increased efficiency of American industry; and (5) inadequate revenue, caused in part by increasing expenditures and in part by the industrial depression of 1907. During these years revision was opposed both by the Republican party leaders in Congress and by the president, but for quite different reasons. The former opposed it because, in the midst of general prosperity, they feared that business depression might result from the uncertainties connected with tariff tinkering. This, no doubt, had its influence with the president; but he was more moved by the feeling,

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which was shared by millions of his fellow-countrymen, that the importance of the tariff had been overestimated, and that there were moral and social questions in which the American people were and should be more deeply interested. He was able to force to the front what have become known as the "Roosevelt policies" and to leave to his successor the thankless task of tariff revision.

Revision upward or downward?

Whether the Republican party had committed itself to a downward revision became subsequently a matter of acrimonious debate. During the special session of 1909 Senators Aldrich and Lodge defied any one to show where downward revision had been promised. The Massachusetts senator said:

> Early in this debate the senator from Rhode Island [Mr. Aldrich] and I happened to state incidentally that the Republican declaration of principles contained no pledge or promise of a revision downward or a revision upward. For that statement we were severely criticized. We could not have been more severely criticized if we had uttered a falsehood instead of stating, as we did, the exact truth.

He then proceeded to verify this assertion by quotations from official statements. In the National Republican Convention of 1908 the temporary chairman, Mr. Burrows, stated that Republican tariff revision would give

> just and adequate protection to American industries and American labor, and defend the American market against unjust and unequal aggression from whatever quarter it may come. It will be a revision that will extinguish the fire in no American mill and put out the light of hope in no American home.

Mr. Lodge, the permanent chairman, made no allusion to the tariff in his address to the convention. The Republican platform called for a special session of Congress, that should so revise the tariff that the duties "will equal the difference between the cost of production at home and abroad, together with a reasonable profit to American industries." Mr. Taft, in his letter of acceptance, subscribed to the Republican platform. In this letter he said:

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The tariff in a number of schedules exceeds the difference between the cost of production of such articles abroad and at home, including a reasonable profit to the American producer. The excess over that difference serves no useful purpose, but offers a temptation to those who would monopolize the production and sale of such articles in this country to profit by the excessive rate. On the other hand, there are some few other schedules in which the tariff is not sufficiently high to give the measure of protection which they should receive upon Republican principles, and as to those the tariff should be raised.

Mr. Sherman's letter of acceptance cited and approved Mr. Taft's statement. On this evidence Mr. Lodge rested his case, although he further asserted that a large majority of the changes made were rate reductions.

Several Republican senators took issue with this view of the case, especially Beveridge and LaFollette. The former, in his speech of May 25, 1909, reviewed Mr. Taft's attitude regarding revision, beginning with statements made by him at Bath, Maine, as early as September 5, 1906. Going over the ground covered by Senator Lodge, he showed more clearly what Mr. Taft had promised the people in various speeches made during the campaign. At Cincinnati, on September 22, 1908, the Republican candidate said:

The Dingley tariff has served the country well, but its rates have become generally excessive because conditions have changed since its passage in 1897. Some of the rates are probably too low, due also to the change of conditions, but, on the whole, the tariff ought to be lowered in accordance with the Republican principles and the policy that it has always upheld of protection of our industries. I wish there to be no doubt in respect to the revision of the tariff. I am a tariff revisionist and have been one since the question has been mooted.

In a remarkable speech at Milwaukee, on September 24, 1908, answering a speech made by Mr. Bryan on the tariff, Mr. Taft reiterated his views on revision, closing with this statement:

It is my judgment, as it is that of many Republicans, that there are many schedules of the tariff in which the rates are excessive and there are a few in which the rates are not sufficient to fill the measure of conservative protection. It is my judgment that a revision of the tariff

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in accordance with the pledge of the Republican platform will be, on the whole, a substantial revision downward, though there probably will be a few exceptions in this regard.

In his inaugural address on March 4, 1909, he said that tariff revision "will permit the reduction of rates in certain schedules and will require the advancement of few, if any."

Mr. Taft refrained from public utterances on the tariff during the discussion of the bill in Congress; but a statement of Secretary of the Treasury MacVeagh, in a speech in Chicago in June, may be regarded as at least semi-administrative:

> What the people expect is what the protectionist Republican party promised in its last year's platform, as interpreted by its candidate for the presidency; and, while it is talking against the wind to argue that the revision expected is not a revision downward, it would be equally futile to say that the revision down was promised to be a revision down and out.

After the bill passed the Senate the president stated to a delegation of twenty-two House members, who visited him on July 16, that "he felt strongly the call of the country for a downward revision, within the limitations of the protective principle, and he hoped to be able to respond to that call as he heard it, as well in the interests of the party as of the country."

It seems very clear that, so far as Mr. Taft was concerned, tariff revision meant downward revision; and it is difficult to ignore the fact that a very respectable number of voters so understood him. The character of the revision will be considered in the following pages.

Preparation and passage of the bill

In anticipation of tariff revision, the House Committee on Ways and Means had set its clerks at work, months before the Chicago convention, preparing a comparative statement of imported merchandise, which was printed with an index in a volume of a thousand pages under the title, *Imports and Duties, 1894–1907*. In May, 1908, the House passed a resolution authorizing this committee to gather all possible information

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which would be serviceable in revising the tariff. Schedules of prepared questions, relating to foreign wages, industries, cost of production *etc.*, were sent to every American consulate. Special agents of the Department of Commerce and Labor were also enlisted in the work. Information derived from these sources was of questionable value, because of the necessary haste in the preparation of the material, the lack of ability and tact of many of the consular officers and the disinclination of foreign officials and manufacturers to impart the information desired. Under the direction of the clerk of the Committee of Ways and Means all the decisions of the courts and of the general appraisers were digested and printed in an indexed volume of 953 pages with the title, *Notes on Tariff Revision.*

Immediately after the election, on November 10, the Ways and Means Committee commenced "hearings" on the tariff, which were continued almost daily until December 24. During this period several hundred witnesses were examined, and stenographic reports of these proceedings were published in sixteen indexed volumes of *Tariff Hearings.* They contain much valuable information but must be read with caution, since they represent for the most part expressions of opinions of interested producers.[1]

As soon as the hearings were closed, the majority members of the committee, that is the Republican members, formed themselves into a sub-committee for the purpose of framing a tariff. The minority members, of course, had the same privilege, but they did not avail themselves of it, realizing the uselessness of a minority report.

President Taft convened Congress in special session on March 15; and on the following day he explained, in a brief message, that the purpose of the extra session was "to give immediate

[1] Besides the material mentioned above there was a large number of special congressional reports. In 1908 a select committee of the House, with James R. Mann as chairman, was appointed to investigate the subject of pulp and paper. Its report comprised about four thousand pages of carefully indexed printed matter and was available for use in the following tariff revision. Important for the history of the revision are also the 5500 pages of the *Congressional Record*, which contain not only the debates in Congress but also much other matter relating to the tariff. If one has the patience to read it, this material will be found of the greatest value.

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consideration to the Dingley tariff act." On the following day Representative Payne of New York, representing the majority members of the Ways and Means Committee, presented a bill (H. R. 1438) "to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes." This bill was referred to the Ways and Means Committee and was reported back to the House on March 18. The minority was given until March 23 to present its views. Consideration of the bill in committee of the whole began on March 19. The minority view was presented on March 22. On the two following days the debate was opened by majority leader Payne and minority leader Clark. Fifteen days of general debate followed. As the rules of the House permitted amendments to be introduced only by the committee having the bill in charge, this debate had little influence in determining the character of the measure. The bill, with such amendments as were offered by the majority members of the Ways and Means Committee and accepted by the House in committee of the whole, was reported back to the House on April 9. On its final passage, on the day following, the vote was 217 yeas, 161 nays, one answering "present" and nine "not voting." On the same day the bill was introduced in the Senate, and upon the motion of Mr. Aldrich, chairman of the Committee on Finance, it was referred to that committee. On Monday, April 12, it was reported to the Senate "favorably with amendments" but without explanations. At this point delay was caused by the action of the House, which recalled the bill for correction. It was returned to the Senate on April 19, and on the same day it was referred to the Finance Committee, which immediately reported it back to the Senate with amendments. More than eleven weeks of debate in the committee of the whole followed. The bill passed the Senate on July 8, 45 voting "yea," 34 "nay" and 13 "not voting." A motion of Mr. Aldrich was adopted, "that the Senate insist upon its amendments to the bill and ask for a conference with the House of Representatives upon the bill and amendments." The House non-concurred in the 847 amendments of the Senate and agreed to a conference.

Up to this point the president had been playing a waiting

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game. He now insisted on certain amendments, favoring in general the lowest duties proposed in either of the bills. In the conference agreement was finally attained. The conference report was presented to the House on July 30 and was adopted on the day following by a vote of 195 to 183, 10 not voting. It was adopted in the Senate on August 5 by a vote of 70 to 22 and received the signature of the president on the same day.

Schedules and rates

There are rates of duties on every article imported into the United States that is not in the "free list." Considering the many thousands of different kinds of articles imported, one can easily imagine the complexity of the problem of tariff revision. As a matter of fact, the rates have been modified by the present revision on only a small percentage of dutiable articles, and of those changed only a relatively small number were seriously debated. Only the more important features in the recent revision will be considered in this article.

Cotton schedule (*I*).—The cotton and woolen schedules were much debated, especially within the dominant party. In fact, lack of agreement on these schedules was one of the principal causes of a serious split in the Republican ranks upon the final passage of the bill. As regards the cotton schedule, the average *ad valorem* rates on dutiable imports[1] in the acts of 1897 and 1909 were 44.84 per cent and 50.62 per cent respectively. This means that the duty was increased 12.89 per cent, and the increase would probably be found to be larger were we able to determine the effect of the reclassification of the schedule. The unchanged rates numbered 169, while 58 rates were increased and 27 lowered. Out of a total of $31,856,767.32 of dutiable imports, the unchanged rates affected over 51 per cent, while decreased rates affected only $60,272.14, or less than one-fifth of one per cent. One argument advanced in favor of increased duties on several classes of cotton goods was that certain court decisions had overruled certain administrative decisions and had

[1] "Dutiable imports" referred to in this article do not include imports from Cuba and the Philippines, unless especially mentioned. When not otherwise stated, the figures are based on the value of imports in 1907.

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nullified the protective features of the cotton schedule. It appears that, after the Dingley law had been in force for some time, a new appraiser changed the interpretation of a part of the cotton schedule by assessing certain cotton cloths as "etamines, vitrages, veilings and laces," thus subjecting them to some of the highest rates in the flax schedule. These decisions were overruled by the court, the effect being to reduce cotton duties to the rates seemingly designed by Congress, although some protection partisans characterized the decisions of the court as "fraudulent decisions that have almost completely nullified the intent of Congress regarding this schedule." Although much emphasis was laid upon the havoc played by the court decisions, they do not appear to have affected a very large part of the total cotton importations.

The most marked increases in this schedule were those on hosiery and mercerized goods. There was great opposition to these advances, especially on the part of the importing and mercantile classes. As regards hosiery, the duties on the higher classes of goods, valued at over $2 per dozen and comprising only about four per cent of the total hosiery imports, remained unchanged at approximately 60 per cent. The average rates on the cheaper goods, valued at $2 or under per dozen and comprising over 95 per cent of the total imports, were raised from an *ad valorem* rate of 60 to one of 75 per cent. There had been, during the preceding twelve years, a general increase in the value of imported hosiery; but this increase was much more than offset by the increased value of the domestic output.

Although in the hearings before the committee nothing was said about mercerization, the bill provided that an additional duty of one cent per square yard should be levied on "all cotton cloth mercerized or subjected to any similar process." Chairman Payne's explanation for this additional duty was that "the difference in the cost of labor here and abroad clearly showed that the manufacturers were entitled to it." It was shown in the debates: (1) that the allowance was excessive, inasmuch as it applied to all cloth having even a single mercerized thread in it and would accordingly affect a large part of

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cotton goods imported into the United States; and (2) that the cost of mercerization in this country was as low as in foreign countries, if not lower. Attention was also called to the fact (3) that the increased value represented by mercerization would be met by the *ad valorem* rates of the bill. Nevertheless this feature of the bill became law.

Wool schedule (*K*).—Serious attempts were made to modify schedule K, relating to "wool and manufactures of," but these efforts were unavailing. The changes made in the Dingley rates affected less than $12,000 worth out of a total importation of over $62,000,000 of dutiable goods.

Specific duties are levied on wool under three classes. Class one comprises short-staple wool used for the clothing or carded industry. Since this class of wool is of a heavy shrinking sort, the effect of the 11-cent duty on unwashed wool is to increase the equivalent *ad valorem* rate, because of the small wool content, while the importation of washed or scoured wool is practically prohibited by the excessive duties of 22 and 33 cents respectively. On the other hand the 12-cent rate on washed as well as unwashed wool of class two, which comprises the light shrinking, long-staple combing wool used largely in the worsted industry, places this industry in a more favorable position than the carded industry for securing its raw material. Again, the carded interests are put in a more unfavorable position than the worsted interests by the high duties on various kinds of "wastes" which are used by them and which constitute a by-product of the worsted industry. Furthermore, carded industries are handicapped by the prevailing styles, which favor worsted goods; by their less efficient organization as compared with that of the worsted industry, which is largely centralized in one huge corporation; and by the fact that they require as raw material a class of short-staple wool which is largely raised in the West, and which western wool-growers are therefore anxious to keep out by high import duties, in order to maintain high domestic prices. This community of interest between western wool-growers and eastern worsted manufacturers, favored by the dominant party's vote-getting needs, operated to the disadvantage of the carded industries, which are widely scattered,

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especially throughout the middle West. The result was a practical reënactment of schedule K of the Dingley law, with excessive duties both on raw wool and manufactures of wool. There is nothing in the tariff more complex than the combination of specific, *ad valorem* and compound duties in this schedule. This complexity is due in large measure to the system of specific compensatory duties, which are supposed to compensate manufacturers for the high price of raw material due to the duty on wool. The compensatory allowance is excessive for at least two reasons. In the first place, it assumes that the domestic price exceeds the foreign price by the full amount of the duty, which is not always true. In the second place, it establishes an arbitrary ratio as to the amount of unwashed wool of the first class in the manufactured product and adds this to an *ad valorem* protection rate. This compensatory duty applies not only to all woolen goods but also to "all manufactures of every description made wholly or in part of wool." It should also be noted that the shrinkage of the wool usually imported into the United States in manufactured form does not equal the stipulated allowance. Several amendments which were designed to simplify and equalize the rates in this schedule were rejected in the Senate. Prominent among the amendments offered was a proposition to levy duties on the wool content (scoured wool). This plan was opposed as impossible to administer, but its feasibility was demonstrated by Senator Dolliver.

In examining the equivalent *ad valorem* rates of duties in this schedule in connection with the dutiable imports for 1907, we find that the average rate on the entire schedule is 58 per cent. Duties on wool average about 40 per cent, being highest on the carding variety (class 1). The duties on manufactured goods range from 25 to 150 per cent, being highest on the cheaper grade of goods.

Very few Republicans attempt to defend the present woolen schedule. It was publicly repudiated by the president in his speech at Winona on September 17:

> With respect to the wool schedule, I agree that it is too high and think it ought to have been reduced, and that it probably represents consider-

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ably more than the difference between the cost of production abroad and the cost of production here . . . The percentage of duty was heavy—quite beyond the difference in the cost of production . . . When it came to the question of reducing the duty at this hearing in this tariff bill on wool, Mr. Payne in the House and Mr. Aldrich in the Senate found that in the Republican party the interests of the wool-growers of the far West and the interests of the woolen manufacturers in the East and in other states, reflected through their representatives in Congress, were sufficiently strong to defeat any attempt to change the woolen tariff, and that, had it been attempted, it would have beaten the bill reported from either committee. I am sorry this is so, and I could wish that it had been otherwise.

Silk Schedule (*L*).—No such complications arise in the silk schedule as exist in the making of rates on wool and woolens. The United States is not a producer of silk, and hence there is no necessity of protecting the raw material, nor has it seemed advisable to tax it for purposes of revenue. The silk schedule was very little debated in Congress, and no substantial change was made in the entire schedule. The average equivalent *ad valorem* rate shows a slight increase, from 52.67 per cent to 53.33 per cent. The total value of the dutiable imports of silk goods for 1907 was $38,813,592.70. Of this amount the import duties were unchanged on 44 per cent, increased on 24 per cent and decreased on 32 per cent.

Schedule J.—Not very much attention was given to schedule J, relating to "flax, hemp and jute and manufactures of." The average *ad valorem* equivalent was increased from 43.72 per cent to 44.07 per cent. The total dutiable imports for 1907 were valued at $114,120,665.88; on approximately 68 per cent of this amount the duties remain unchanged, on $10,137,385.45 of the imports there is an increase of 22.88 per cent and on $26,695,873.67 a decrease of 5.07 per cent. There are general reductions on threads, twines or cords composed wholly or in part of flax, hemp or ramie, on stamped, painted or printed oil cloths and linoleums and on over $25,000,000 worth of the cheaper grades of burlap. There are increases of over 16 per cent on $3,617,455.45 worth of the cheaper grades of straw matting and an advance of nearly 30 per cent (from 35 per cent to 45

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per cent *ad valorem*) on about $5,000,000 worth of woven fabrics "not especially provided for," composed wholly or partly of flax, hemp or ramie. An acrimonious debate arose over the duty on cotton bagging, which is used in wrapping cotton bales. Southern congressmen argued that it was unjust to their locality to maintain the tax while the northern and western farmers were given free binding twine and reduced duties on burlaps. Cotton bagging was put on the free list in the act of 1894; but the act of 1897 levied a duty of six-tenths of a cent per pound, which was incorporated in the present bill as it passed the House. The Senate placed this commodity on the free list; but when the bill emerged from the conference committee the House rate of six-tenths of a cent, equivalent to about 10 per cent *ad valorem*, had been restored.

Lumber Schedule (*D*).—Changes in schedule D, relating to "wood and manufactures of," were hotly contested in both houses. As to the importance of this schedule as measured by statistics, dutiable imports in recent years show a marked increase, being valued in 1907 at $24,471,243.33. This amount, however, is very small compared with the enormous value of the domestic lumber and timber products, which, according to the census of 1900, was $556,621,755. In this schedule the average equivalent *ad valorem* rate is much lower than in any other schedule of the tariff, and the reduction in the new bill is quite marked, from 15.16 per cent to 12.79 per cent. While nearly 17 per cent of the import values are unaffected and on 10 per cent the rate is increased, on about 73 per cent the rate is lowered. Under the Dingley law "timber hewn, sided or squared (not less than eight inches square)" paid a rate of one cent per cubic foot. The new law reduces the rate to one-half of a cent per cubic foot; but by the insertion of the words, "otherwise than by sawing," it constructively puts most of the timber covered by this paragraph into the class of "sawed lumber not specially provided for," paying a higher duty; so that, while nominally there is a reduction of 50 per cent, in reality the duty is raised at least 50 per cent. The old rate was practically prohibitory, the importations for 1907 being less than $50,000. "Sawed lumber not specially provided for," comprising about 60 per cent of the

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total imports, was the centre of the struggle in the lumber schedule. Two dollars per thousand (equivalent to about 12 per cent *ad valorem*) was the rate in the Dingley law. In the House bill the rate was one dollar per thousand, and Mr. Payne, in his introductory speech, characterized this as a "fair duty." The Senate raised this rate to $1.50; but in the conference, through the insistence of the president, a rate of $1.25 was agreed upon. On the other hand, the old rate of 30 cents per thousand on shingles was raised in the conference to 50 cents. This affected importations to the value of $2,000,000. It should be noted, regarding the rates on sawed lumber, that the differential between the unplaned and planed, although reduced in the present bill, is relatively so high as virtually to exclude the importation of finished lumber. Much discussion arose over the countervailing "joker" in the House bill, to understand which reference must be made to previous tariffs. Under the act of 1894 lumber as well as logs came in free. The act of 1897 placed a duty of $2 on the former but left logs on the free list. Under these conditions it was feared that Canada might place an export duty on logs, in order to discourage their exportation to and manufacture in Michigan and to stimulate home manufacture. To meet this possible situation, a proviso was inserted in the Dingley law to the effect that, if any foreign country put an export duty on logs, the amount of such duty should be added to the existing duties on manufactured lumber imported from such country. Canada, or rather those provinces in the Dominion which had timber to export, met this by prohibiting the exportation of logs and by requiring that the timber cut from their crown lands be manufactured at home. The proviso of the Dingley law was introduced in the House measure in a more drastic form, reading as follows:

> If any country, dependency, province or other subdivision of government shall impose an export duty or other export charge of any kind whatsoever upon or any discrimination against any forest product exported to the United States, or if any country, dependency, province or other subdivision of government forbids or restricts the exportation of any forest product to the United States in any way, there shall be imposed upon all of the forest products of such countries when im-

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ported into the United States the duties prescribed in section 3 [maximum rates] of this act.

Representative Kitchin characterized this provision as "a makeshift to deceive the American people, who want removal or reduction of the tariff on lumber, and at the same time to satisfy the lumber interests." Should Canada abolish all timber restrictions, the minimum rates of the new American tariff would prevail; otherwise the maximum rates, equivalent to the rates of the Dingley law, would prevail; and this is what the author of the proviso, Mr. Fordney of Michigan, virtually admitted would happen. The different provinces of Canada have different forest and timber laws.

Each [said Mr. Kitchin] must revoke her policy and repeal her forest product laws before the Payner eductions apply. All may do so and meet every requirement of the proviso but one little province, yet that one is sufficient to make the Dingley act, the present tariff, apply to all Canada and her provinces.

This proviso was finally thrown out in the House upon the suggestion of its author. Aside from the changes in rates above, the Dingley schedule was practically reënacted in the present law.

Various arguments were advanced for and against the lowering of duties on lumber. It was maintained that the high price of lumber was a great hardship to the consumer. The usual answers made to this were: that the duties in the lumber schedule were lower than in any other schedule; that high prices were not characteristic of lumber but had been universal during the past decade; that the demand for reductions came from only a limited number of consumers, who demanded protection for everything they produced but were unwilling to concede protection on articles which they did not produce; and that reductions in duties would benefit the middlemen only and never reach the final consumer. Demand for lower rates on lumber came, in some instances, from Americans owning stumpage in Canada, especially in British Columbia, who thought that Canadian values would rise by the opening of the American

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markets. The debate indicated that stumpage values might be slightly enhanced by lower import duties, but that this increase was over-estimated, because the amount of merchantable timber in Canada was over-stated and the increasing demand of Canada for timber was not appreciated. The contention that labor was cheaper in the Canadian timber industries than in the United States was not, broadly speaking, proven.

One of the main arguments that gave popularity to the cry for lower duties on lumber was that our forests were being rapidly depleted, and that our forest resources would be greatly conserved by removing the duties on lumber and allowing us free access to foreign markets. The answer most often given was that lower duties would have the opposite effect, because anything that tended to depress the price of lumber increased the waste, by compelling lumber manufacturers to select only the better grades, and low prices made it unprofitable to cut the cheapest grade, which was the only class needing protection. A published statement of Mr. Pinchot, Chief of the United States Bureau of Forestry, is so much to the point that it deserves to be quoted:

> If the tariff on lumber were to be removed, it would be done, I take it, for one or both of two purposes, either to reduce the price to the consumer or to preserve our forests. In my judgment it would accomplish neither.
>
> Free lumber would not materially reduce the price to the consumer. Stumpage prices are at present somewhat lower in Canada than in the United States. The taxation of Canadian timber land is better adjusted to the conditions under which timber must be cut than it is with us, but the average costs of logging and manufacture are probably as as great there as here. If the duty were removed the effect of these factors would be to increase the value of Canadian stumpage and, to some extent, the profits of the Canadian manufacturer and the American retailer. There would remain little if any benefit to the ultimate consumer of lumber in the United States.
>
> The fundamental question at issue in the lumber tariff is forest conservation. I believe that the demand for free lumber rests mainly on the hope that it offers a way to protect our forests. If I were of the same opinion, I should favor the removal of the tariff. But I am unable to

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see how free lumber will promote forestry. There is only one way to save our forests; that is, to see that they are kept at work growing new crops of timber as the old are cut away.

It should be added that the demand for the maintenance of duty on lumber came, geographically, from the lumber-producing regions of the Northwest and the South and, in a less degree, from certain districts in the North and Northeast. The demand for free lumber was centered in the middle West.

Wood-pulp schedule (*M*).—Somewhat related to the lumber schedule is schedule M, comprising "pulp, paper and books." The total dutiable import value of these articles for the year 1907 was $20,004,377.62. The average *ad valorem* rate was increased from 20.67 per cent to 23.43 per cent. The principal discussion on matters covered by this schedule was on wood pulp and the cheapest grades of print paper manufactured from it.

Wood pulp is chemically prepared by a sulphite of soda process or by mechanical grinding. The two kinds are usually mixed in the manufacture of print paper, about 80 per cent of the cheaper mechanically ground pulp being used. The increasing price of paper led to an agitation by newspaper publishers, in the early part of 1908, for placing wood pulp on the free list. This agitation was side-tracked by the appointment in April, 1908, of a special investigating House committee, with Mr. James R. Mann as chairman. The results of their investigation were embodied in a printed report of nearly four thousand pages. The committee adduced no positive proof of a combination in restraint of trade. The report showed that the high price of print paper was due chiefly to the enormous demand and to the limited supply of American spruce—the only raw material for mechanically ground pulp—coupled with an excessive tariff, which made it difficult to draw from the boundless supply of eastern Canada. It was estimated that the United States, east of the Rocky mountains, contained about 35,000,000,000 feet of spruce, 95 per cent of it in the states of Maine, New Hampshire, Vermont and New York. At the present rate of consumption, not including importations, this 35,000,000,-

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000 would disappear in thirteen years. So far as the tariff was concerned, the unanimous recommendations of the committee were incorporated in the House bill but underwent considerable modification in the Senate and in conference. The Dingley law placed on mechanically ground pulp a duty of $1.67 per ton and on chemical pulp a rate varying from one-sixth of a cent (unbleached) to one-fourth of a cent (bleached) per pound, with the proviso that if any country or dependency placed an export duty on pulp wood sent to the United States an equivalent amount should be added to our import duty. As regards chemical pulp no change of duties was recommended or made, but as regards mechanically ground pulp the House bill followed the committee's recommendation of maintaining the $1.67 rate, with the important proviso that this kind of pulp be admitted free of duty from every country maintaining no discrimination or export charges of any kind. In this part of the schedule no change was made in the final bill, except as the effect of its provisions was destroyed by the print-paper tariff and the maximum and minimum clause.

On the cheapest grade of print paper, valued at not over two cents per pound, the Dingley rate was $6 per ton "plus an additional duty of one-tenth of a cent per pound for each dollar of export duty per cord." The House bill, following the recommendation of the Mann committee, provided for a $6 rate, plus the amount of any export duty imposed by a foreign country; but this rate was reduced to $2 when the goods were imported from countries placing no restrictions upon the exports to the United States of pulp wood, wood pulp or print paper. The Senate raised the above rates to $8 and $4, and in the conference they were fixed at $5.75 and $3.75 respectively.

There seemed to be assurance from our Northern neighbor that the House reduction to $2—which, according to the special committee, represented approximately the difference in cost of manufacture in the United States and Canada—would have been sufficient to induce the great spruce-producing provinces of Ontario and Quebec to remove their restrictions upon the export of pulp wood, pulp and paper. It is claimed that the concessions finally agreed upon will not bring about this desir-

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able arrangement. The probable results will be a rise in the price of paper in United States, increased American investments in paper manufacturing in the Dominion and increased importation into the United States of paper instead of the raw material.

Finally a word must be said regarding the working of the maximum and minimum clause. In the bill which passed the House and Senate, wood pulp was especially exempted from this clause. This exemption was cut out in the conference, so that, as the law now stands, it is difficult to see how the president, in face of the various export discriminations of the Canadian provinces, can avoid his obligation to impose an additional duty of 25 per cent, as required in section 3. To quote Representative Mann: "The maximum tariff is as sure to go into effect between Canada and this country as that God made little apples."

Metal schedule (*C*).—The metal schedule reflects radical changes in our industrial history. A quarter of a century ago American protection centered in the metal schedule, especially in that part of it relating to iron and steel. Then fully ten per cent of the value of all imports consisted of "iron and steel and manufactures of." To-day the proportion is reduced to less than three per cent. The total dutiable value of metals and manufactures of metals imported in 1907 was $66,008,668.30—a very small sum in comparison with the value of the domestic product. The equivalent *ad valorem* rates were reduced from 33.17 per cent to 31.70 per cent. Duties remained unchanged on 45 per cent of the entire imports; on 12 per cent of the imports they were increased; on 43 per cent they were decreased. Among the articles on which reductions were made are iron ore (62.50 per cent), pig iron (37.50 per cent), bar iron (20 per cent), steel rails (50 per cent), beams, girders *etc.* (33⅓ per cent), tin plate (20 per cent), steel ingots (from 2.04 to 14.28 per cent) and wire rods (from 11.11 to 25 per cent),

Discussions on this schedule concerned principally iron ore, lead and lead ore, zinc ore and cotton ties.

The debate regarding lead related both to the ore and to the pig or smelted product. The Dingley rate on the former was

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one and one-half cents per pound (equivalent to 78.80 per cent), and no change was made in this rate in the new law. The Dingley rate on pig lead was two and one-eighth cents per pound (equivalent to 70.36 per cent). The House proposed a reduction to one and one-half cents, but the Senate restored the old rate of two and one-eighth cents and carried the point. About 350,000 tons of lead are annually produced in the United States, two-thirds of this coming from the Rocky Mountain states. It is usually mined in conjunction with silver and gold. The lead-producing states fought against any reductions from the Dingley rates, claiming that these rates were necessary because of the low prices of lead and silver and because of the increasing competition from the recently discovered rich deposits of Mexico. They asserted also that it was illogical to maintain the same import duty on the raw and manufactured product, and that without the differential of five-eighths of a cent per pound, pig rather than ore would be imported, and the "independents" would be thrown out of business by the American Smelting and Refining Company, which has refineries and large lead mines in Mexico. The principle of a differential was generally conceded, but it was maintained by many that a differential of five-eighths of a cent was excessive. It certainly seems very liberal; but in studying the import tables it appears that, while the annual importation of ore has increased in value about 60 per cent during the past ten years, the increase in smelted ore has been much more marked.

The history of the lead duties was more or less closely repeated in the matter of duties on zinc. In the Dingley law zinc ore was on the free list, while the import duty on spelter (pig zinc) was one and one-half cents per pound (equivalent to 18.38 per cent). Prior to 1904 the importation of zinc in any form was insignificant; but in very recent years the discovery of rich deposits in Mexico, coupled with increased demand and high prices in the United States, has led to considerable importation both of zinc ore and of spelter, but especially of the former. The demand for protection on the part of the producers was temporarily satisfied by a treasury decision, levying a 20 per cent duty on zinc ore, but this was later overruled by

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the courts. The House proposition in the new bill was a rate of one and one-half cents per pound (equivalent to about 45 per cent *ad valorem*) on the lead content in the ore—a rate which the producers claimed was necessary to protect them from the competition of the Mexican ore, mined with cheaper labor and with less expensive machinery. Two important interests were opposed to these duties, the smelters using the high-grade ores and the oxide manufacturers using the low-grade ores. The rate proposed by the House was finally accepted in conference for the higher-grade ores, containing twenty-five per cent of zinc or more, while, as a concession to the oxide manufacturers of the East, who wished to import these ores from Mexico, the cheaper grades were admitted at a lower rate.

As to spelter, the House bill reduced the Dingley rate of two and one-eighth cents per pound to one and one-half cents, making it equal to the rate on ore. There was strenuous opposition to this change on the part of the smelters. They maintained, in the first place, that there should be no duty on ore, because the supply in this country is inadequate, as is shown by the fact that during the past ten years the price of ore has increased 100 per cent while that of spelter has increased only 35 per cent. They claimed, in the second place, that should a duty be placed on the ore it would be illogical to abolish the differential and to place the same duty on the ore and on the spelter. It was fairly demonstrated that in the eastern markets of the United States foreign spelter was one-fifth to one-third of a cent per pound cheaper than the American product, and that the abolition of the differential would encourage the importation of the spelter rather than of the raw material. The bill as finally agreed upon allowed a differential of seven-eighths of a cent per pound by placing a duty of two and three-eighths cents per pound on the spelter. It thus appears that the producers, smelters and oxide manufacturers were liberally provided for, but that the consumers received scant consideration.

The duty on iron ore received more attention than any other part of the metal schedule. The old rate was 40 cents a ton. It was placed on the free list in the House, raised to 25 cents per ton in the Senate and finally settled in the conference at 15

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cents per ton. Most of the imports come from Spain and Cuba. The increase of Cuban imports has been marked in recent years, owing to the discovery in the island of very valuable high-grade ore and to the 20 per cent reduction allowed in the reciprocity treaty. Free iron ore was advocated in general by eastern manufacturers, who need foreign ores for mixing with their own low-grade ores. It was especially urged by some of the larger steel concerns in the East, which own large ore holdings in Cuba. Many favored free ore as a means of conservation and in order to weaken the control of the steel trust over the supply of available ore. In answer to the latter it was shown that ownership in Cuban mines was largely vested in American steel corporations not unfriendly to the trust. Besides, as Senator Bailey remarked: "If you make it possible to import iron ore below the cost of production to the steel trust, the steel trust will simply close up its mines and import it cheaper than it can produce it." While the duty on iron ore seems indefensible as a protection measure, it was consistently supported by many as a means of raising revenue.

Pig iron comprised nearly 40 per cent in value of all iron and steel imports in 1907, about 80 per cent coming from the United Kingdom. The duty was lowered from $4 to $2.50 per ton; and this reduction, based upon statements of such interested parties as Carnegie and Gary, still left ample protection. The duty on scrap iron and steel, which was $4 per ton in the Dingley act, was reduced in the House bill to 50 cents. The Senate restored the old rate, but in conference a compromise was effected at $1 per ton. The explanation for the reduction was that scrap iron and steel were needed to mix with pig iron in the open-hearth process of making steel, and that an adequate supply could not be obtained in the United States. The duty on tin plate was reduced from one and one-half cents to one and one-fifth cents per pound. The importations during the past ten years, comprising about 12 per cent in value of the total imports of iron and steel products, has remained substantially uniform, while domestic production during the same period has increased over 75 per cent, which means that the United States practically supplies the domestic market.

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There was very little controversy over this schedule, and it was generally admitted by protectionists that the 20 per cent reduction would have no appreciable effect upon imports. The above-named articles in the iron and steel schedule, together with bar iron, cutlery and machinery, concerning which there was little debate, comprise approximately 80 per cent in value of the entire iron and steel imports. The balance of the schedule is made up of a long list of articles of which insignificant quantities are imported, either because the import duties are prohibitory or because domestic producers control the home market regardless of import duties. For instance, we import practically no cotton ties of iron or steel used for baling cotton. The prohibitory Dingley rate of one-half of a cent per pound was reduced to three-tenths of a cent, although strenuous efforts were made by southern congressmen to have this article, as well as cotton bagging, placed upon the free list.

The importation of structural steel was practically prohibited by the Dingley rate of $10 (36.75 per cent) per ton. The House bill reduced this to $6 (equivalent to 29.40 per cent). When the bill became a law the rates were fixed at $6 and $8 according to the value, but by a new wording the rates were transferred to a new paragraph carrying a 45 per cent duty. Copper ore, as in the Dingley law, was placed on the free list.

Tobacco (*F*).—Of tobacco the United States is the largest producer in the world, its annual crop being valued at over $70,000,000. More than one-half of the crop is exported. Our total imports in 1907 were valued in round numbers at $26,000,000, about one-third being long-leaf wrapper tobacco imported from Sumatra, and the balance a filler tobacco for high-grade cigars, coming mostly from Cuba and Turkey. Because of its peculiar quality the imported tobacco does not seriously compete with the domestic product, and for this reason the duty is primarily a revenue duty. Some attempts were made to raise the import duties for the sake of increasing the revenue, but the bill as passed re-enacted the Dingley rates, which represented an *ad valorem* equivalent of over 87 per cent —the highest of any schedule in the tariff. Certain internal-revenue features of the bill, relating to coupons, the size of

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packages and the rights of the small producer to sell directly to the consumer, created much serious debate; but their consideration, though very important, hardly belongs to a discussion of the tariff.

Sugar (*E*).—The sugar industry has passed through many political and economic vicissitudes during the past decade, and the general tendency of the duties on sugar has been to pass from a revenue to a protective basis. Comparing the years 1899 and 1907, the price of sugar has fallen and the *per capita* consumption has largely increased. During the period there has been an enormous expansion of the beet-sugar industry; the important cane-sugar producing areas of Hawaii and Porto Rico have been annexed to the United States; cane sugar from Cuba enjoys a reduction of 20 per cent and that from the Philippines a reduction of 25 per cent. The result is that, while domestic production comprised about 15 per cent in 1899, it was increased to over 41 per cent in 1897 or, including Cuba and the Philippines, to over 90 per cent. The revenue in the meantime decreased from about 30 per cent to 18 per cent of the total customs revenue.

In the Dingley tariff, all sugar above number sixteen of the Dutch standard and sugar that had gone through a process of refining paid an import duty of 1.95 cents per pound. This was reduced to 1.9 cents in the new tariff, and this was the only change made as regards sugar, excepting the free importation of Philippine sugar up to 300,000 tons. Raw sugar (described as not above number sixteen Dutch standard and testing by the polariscope not above seventy-five degrees) pays a duty of .95 of a cent per pound, with an additional .035 of a cent for each additional degree. Theoretically, imported raw sugar should pay a duty equivalent to 1.825 cents per pound on 100-degree sugar, thus leaving a differential in favor of the refiner of the difference between 1.9 cents and 1.825 cents, or .075 of a cent; but commercial sugar tests only 96 degrees, and the differential is therefore in reality at least .215 of a cent. The differential has always been in the past and is in the present bill greatly in excess of the actual loss in refining sugar. The result of the tariff is, therefore, practically to

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prohibit the importation of refined sugar, both because of the high import duty and because of the high color test, while the excessive differential is a gratuitous contribution to the coffers of the refiners.

The effect of the extension of our sugar areas and of the increase in the domestic output was much debated in the special session of Congress, and many extravagant statements were made. So long as a considerable amount of our sugar must be drawn from foreign countries, the domestic price will exceed the foreign price by a sum approximately equal to the amount of the duty. At the present time our needs are very nearly supplied by the domestic output and the sugar coming from Cuba. During the earlier months of the year, when the Cuban supply is being marketed, our markets are in fact over-stocked, and we draw no sugar from countries paying the full duty. During this period the excess of the domestic price over the foreign price is reduced fully 20 per cent—the amount of reduction accorded in the Cuban reciprocity treaty. With a slight increase in the American and Cuban output, which will make us independent of foreign sugars, this situation will be permanent. The strife of the immediate present is to preserve the American market for the American cane and beet-sugar producers. The struggle of the future will be between the cane-sugar interests and the beet-sugar interests, and this struggle would be very much hastened by any political disturbance in Cuba that should make her a part of the Union. During the special session there was much angry discussion over the sugar legislation. Certainly the tariff is very favorable to the refining interests. Beet-sugar development is opposed to the interests of the refiners, because the beet-sugar mills turn out a finished product. The refiners have met the situation by acquiring large holdings in these mills. The extension of the domestic cane-sugar areas by the annexation of Hawaii and Porto Rico has enabled them to exert a more direct control over prices. Cuban reciprocity has given them cheaper sugar. So long, however, as the domestic supply is inadequate, the producers are certainly benefited by the tariff. Nor are the consumers entirely without advantage, as is evidenced by the fact that the

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price of refined sugar declines with the fall in the price of the raw material.

Two legislative modifications in the present tariff were strenuously but vainly urged by "insurgent" leaders, namely, to abolish both the differential and the Dutch standard. It was claimed that both changes would benefit the consumers by decreasing the profits of the refiners, and that to allow the importation of colored sugars of a high saccharine test would probably increase the revenue. The claim that the abolition of the Dutch standard would lead to the importations of bleached sugars with a low saccharine test was answered by saying that such sugars soon darkened and, besides, were not in consonance with the American usages of trade. It was asserted that the abolition of the differential would still allow the refiners to refine all duty-free sugar and would furthermore "put the sugar refiner upon an even plane with the beet-sugar man."

Agricultural products (*G*).—The average *ad valorem* equivalents in schedule G, comprising "agricultural products and provisions," were increased about 6.7 per cent (from 30.14 to 32.17 per cent). The increased rates affect about 10 per cent and the decreased rates less than three per cent of the total value of dutiable agricultural imports in 1907. Some duties, such as that on maccaroni, are maintained essentially for revenue; others, such as the duty on corn, are hardly defensible on any ground except the political effect they may possibly have on the farmer vote; while a third class, such as duties on barley, rice and sub-tropical fruits, are more or less consistently urged on the ground of protection. *Ad valorem* equivalents in the last-named class range as high as 100 per cent. Comparatively little attention was given to schedule G in the special session, although some articles, such as barley, lemons and pineapples, were the subject of considerable debate.

Under the low rates prior to 1890 considerable barley, imported from eastern Canada into New York, was mixed with American barley and made into malt. Since 1890 this malt industry has been largely destroyed by a high duty, levied primarily to protect the barley producers of the Northwest. Under the Dingley rate of 30 cents per bushel (equivalent to

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53.64 per cent) importations of barley have practically ceased, the domestic product has increased from 55,792,257 bushels (1898) to 153,597,000 bushels (1907), while exports (in spite of some variations) have remained nearly stationary at 10,000,000 bushels. The House bill proposed a reduction from 30 to 15 cents per bushel, Chairman Payne regarding the latter rate as "perfectly high protection." This was increased later (in the House) to 24 cents. The old rate was restored in the Senate and is contained in the present law.

The duty on lemons was 25 cents per box in 1890, 30 cents in 1894, and after 1897 one cent per pound (equivalent to 80 cents per box). The House bill raised the rate to one and one-fourth cents per pound (equivalent to $1 per box), and this was increased in the Senate to one and one-half cents (equivalent to $1.20 per box). The demand for higher duties came from California, which produces practically all lemons grown in the United States. It was maintained that the increase was necessary in order to enable Californian lemons to be sold east of Pittsburg in competition with Italian and other foreign lemons. It was also argued that it was an important source of revenue. On the other hand, it was shown that Californian lemon producers were very prosperous; that since the passage of the Dingley law their output had increased at a much greater rate than importations; that their superiority gave them easy entrance into the eastern market, in preference to Italian lemons; and that at the present time the demand was greater than the supply. For these reasons it was argued that no additional burden should be placed upon the consumers of lemons.

In regard to pineapples, similar arguments were advanced with similar results: the duty was increased from seven to eight cents per cubic foot, or from $7 to $8 per thousand in bulk. The aim in this duty was to protect Florida and Porto Rico pineapples against Cuban competition.

Chemicals, oils and paints (*A*) were imported in 1907 to the value of $41,034,563.84, paying an average *ad valorem* rate of 27.68 per cent. In the new law there is 44.48 per cent increase of rates, affecting imports to the value (in 1907) of $4,863,730.38, and 79.03 per cent decrease, affecting imports of $1,-

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632,318.89. The duty on the great body of imports of this class remains unchanged, the *ad valorem* equivalent on the entire schedule being slightly increased, from 27.68 per cent to 28.29 per cent. The changes in schedule A relating to "earths, earthenware and glassware" were likewise insignificant, the *ad valorem* equivalents of duties affecting $27,722,038.82 worth of imports being lowered from 49.04 to 48.79 per cent.

Sundries (*N*).—Under the caption "sundries," schedule N contains a variety of articles not easily classified under any of the preceding schedules. The *ad valorem* equivalents were raised from 22.53 to 24.34 per cent and affected over $82,000,000 of imports. The duties which aroused most discussion were those on coal, boots and shoes, hides and leather. In the Dingley law anthracite coal was on the free list, and no change was made in the new bill. In the Dingley law bituminous coal paid a duty of 67 cents per ton. The House proposition retained this rate, but added the very important proviso that coal "imported from any country, dependency, province or colony which imposes no tax or duty on like articles imported from the United States shall be imported free of duty." The purpose, of course, was to pave the way for reciprocity with Canada. The Senate struck out this proviso and reduced the import duty from 67 to 60 cents a ton. In the conference the rate was fixed at 45 cents a ton and the proviso was omitted.

Geographical considerations, which play more or less of a part in every schedule of the tariff, are especially important as regards duties on coal. New England produces no coal, drawing her supply from the Pennsylvania district and from Nova Scotia, and is therefore in favor of free coal. The Pennsylvania district, comprising Pennsylvania and neighboring states, opposes free coal; for while reciprocity with Canada might increase its exports to lower Canada, since central Canada produces no coal, it fears competition with Nova Scotia in New England—a fear more or less groundless when one considers the great superiority of the American coal and the reduced rates which the railroads would probably adopt to meet this competition. The great tier of northern states running from Pennsylvania westward nearly to the Rockies has vast coal de-

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posits and would be glad to increase its markets in central Canada. Wyoming and Washington produce a poor quality of coal and fear competition with the better grades mined in Alberta and British Columbia.

In addition to the protection arguments advanced in support of a duty on coal, emphasis was laid on the necessity of a duty for conservation and for revenue. The same arguments for and against a duty for the sake of conservation were advanced in regard to coal as in the case of lumber. Imports do not seem to have materially increased under free coal. In 1907 we imported about 9,000,000 tons, which amounted to less than three per cent of our domestic production. In the same year the revenue derived from bituminous coal was less than $700,000. The present bill will reduce this about $200,000.

There was much discussion over the duty on hides, and this involved also the subject of leather and manufactures of leather. The Dingley rate on hides was 15 per cent, with a full drawback allowance on reëxported leather. The House bill put hides on the free list, but in the Senate the Dingley rate was temporarily restored. Free importation of hides was demanded by the tanners and by all leather manufacturers, especially those engaged in the boot and shoe industry. The tanners fairly proved that the packers were exerting an unhealthy influence on the price of hides: that the situation had been rendered very unfavorable for the tanners in recent years because the packers were engaging extensively in the business of tanning their leather, and that the independent tanners, being compelled either to buy of competitors or in foreign markets, were being driven to the wall. Cattle-raisers opposed any reduction of the duty, although it was conclusively shown that in buying cattle very little account was taken of the hide and that the lion's share of the increase in price caused by the import duty went to the packers. The interests of the tanners and of the leather manufacturers were united in favor of free hides, which are the raw material for both industries. The interests of the two were opposed when it came to the question of a duty on leather, which is the finished product of the former but the raw material of the latter. With free hides, a duty on leather was

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demanded, both in order to favor the importation of hides rather than that of leather, and also because a duty is maintained on tanning extracts to encourage the manufacture of leather here rather than abroad.

The argument most frequently advanced by the boot and shoe interests in favor of free hides was the great advantage which would accrue to the ultimate consumers. With free hides and free leather, boot and shoe manufacturers would be satisfied to have their product placed on the free list. The United States is an exporter and not an importer of these articles. The countries to the south buy increasing quantities of light-weight shoes, often made partly of canvas; the export of high-grade shoes, on the other hand, is mostly for the use of Americans sojourning in Europe. It was thought a few years ago that the United States would rule the markets of the world in these high-grade shoes, but this trade is on the decline, owing to the installation of the Goodyear machines with American patents in foreign countries.

In the House bill, duties on all kinds of leather as well as on boots and shoes were lowered about 40 per cent, but the Senate was unwilling to go so far and proposed a reduction of about 20 per cent. In the conference there was serious contention over the duties on hides and leather. The House conferees insisted upon free hides, and in this they were strongly supported by the president. Certain senators from western states, however, protested that they would not vote for the bill without a duty on hides. A compromise was finally effected: hides were admitted free, and a reduction was made in the Senate rate on leather, boots and shoes and harnesses, so that the rates as finally agreed upon were practically those originally proposed by the House.

The rates on women's gloves, as on hosiery, were enormously increased in the House bill. These increases were especially high on the cheaper grades of goods, amounting to an advance from $1.75 to $4 per dozen, or an increase of nearly 130 per cent, on schmaschen gloves, glacé finish, not over fourteen inches in length. A storm of protest was raised against these changes, the opposition coming from the same interests which

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were opposed to the advance in the rates on hosiery. In defence of these changes Chairman Payne claimed that, while incidentally increasing the revenue, they would lead to a transfer of the manufacture of women's gloves from Europe to the United States. In answer it was stated that our imports represented only a small percentage of our total domestic production; that the gloves imported belonged to a class in which the element of very highly skilled hand labor predominated; that, for this reason, they could not be economically manufactured in this country; and that any attempt to develop the American manufacture by prohibitory rates would place an unjustifiable burden on consumers. In defending the increased rates on women's and children's gloves, Chairman Payne made the statement that, before the advance of duties on men's gloves in the Dingley tariff,

> we were making perhaps five per cent of the men's gloves in this country and importing the balance. To-day we are making 90 per cent of the gloves worn by men in the United States and importing 10 per cent. . . . We believe that when this bill becomes a law and is in full operation and before it is repealed we will be making 90 per cent of the women's gloves in this country.

Comparing the import statistics for the year prior to the enactment of the Dingley law (1906) with those of 1907, we find that the importation of men's gloves remained stationary at a little less than $900,000, while the importation of women's and children's gloves increased, in round numbers, from $6,000,000 to $10,000,000. Taking into account the growth of the domestic industry, it may be stated generally that the importation of men's gloves shows a relative decrease during the past decade, while the importation of women's gloves about keeps pace with the growth of the industry in the United States. It is officially stated that 75 per cent of the gloves used in the United States are made in this country. When the bill reached the Senate, the Dingley rates were practically restored with little discussion. In a few instances they were lowered, the most marked case being the reduction of schmaschen gloves not over fourteen inches long from $1.75 to $1.25 per dozen.

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The free list.

Of the various articles in the free list, coffee, petroleum and works of art were most fully discussed. Coffee has been on the free list since 1873. It was continued on the free list in the bill introduced into the House, but there was added the following proviso: "If any country, dependency, province or colony shall impose an export duty or other export tax or charge of any kind whatsoever, directly or indirectly, upon coffee exported to the United States, an equivalent duty or charge shall be levied, collected and paid thereon." In explanation, Chairman Payne said: "We do not rely on getting a dollar of revenue out of Brazilian coffee or any other coffee under this paragraph. We expect that every duty will be taken off." Two-thirds of the coffee of the world comes from Brazil, and the Brazilian state of São Paulo alone supplies seventy per cent of the coffee consumed in the United States. A peculiar political condition exists in Brazil. The power of levying export duties is vested in the state governments. The state of São Paulo levies an export duty on coffee. This is her chief source of revenue. In order to raise money for internal and other improvements, she has borrowed about $75,000,000 in the money markets of the world, pledging as security the export duty for a number of years. As additional security, and in order to maintain prices, the state government has taken into its own hands under an arrangement with the growers about 7,000,000 bags of coffee. A considerable amount of this coffee is stored in New York. This country also holds about twenty per cent of the bonds. Under these conditions it seemed impossible that either the Brazilian federal government or the government of São Paulo should abolish this export tax; and accordingly, upon the recommendation of Mr. Payne himself, the proviso was stricken out.

In the tariff bill of 1894, as it left the House, crude or refined petroleum was on the free list; but during the passage of the bill through the Senate an unnoticed, or at least undebated, proviso was added, which stated that

if there be imported into the United States crude petroleum or the

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products of crude petroleum produced in any country which imposes a duty on petroleum or its products exported from the United States, there shall be levied, paid and collected upon said petroleum or its products so imported forty per centum *ad valorem*.

It was known by interested parties that petroleum-producing countries, especially Russia, maintained high import duties on this product, and the purpose of this proviso was, in an indirect way, to exclude the foreign petroleum which was finding its way into American markets. As petroleum still continued to come in, although in inconsiderable quantities, this proviso was altered, in 1897, to make the import duty equal to the amount of the duty levied on the American product in foreign petroleum-producing countries. The effect of this was to increase materially the duty on petroleum imported from Russia and other petroleum-producing countries. Under these provisos very little foreign petroleum found its way into American markets. The new tariff bill, as introduced into the House, reënacted the provisions of the Dingley law regarding petroleum. This proposal aroused a storm of opposition in the House. In favor of the proviso the argument was advanced that the independents were producing about eighty per cent of all crude petroleum and that the indirect prohibitory duty was necessary to protect them. It was also emphasized in the debate that vast supplies of petroleum had recently been discovered in Mexico and that these were controlled by the Standard Oil Company, which could flood the American markets were the duties removed.

The usual replies to these arguments were that, while crude petroleum was largely produced by the independents, when it came to a matter of price these producers were largely at the mercy of the Standard Oil Company, because of its more efficient organization and its extensive control of pipe-lines. If lower prices resulted from the free importation of petroleum, this would benefit the consumers, and, as between the producers and refiners, the loss would fall largely on the latter, since prices were now maintained at a point that would barely keep the producers in the field. As far as the Mexican oil fields

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were concerned, their output was as yet problematical, and if conditions unfavorable to the American interests should arise these conditions could be dealt with at the proper time. The proviso was decisively rejected when put to a vote in the House. It was reënacted in the Senate, in a modified form; but in the conference the House had its way, and petroleum was put unconditionally on the free list.

An interesting discussion arose over works of art. The policy of the United States, as expressed in the Dingley law, was to allow, in general, the free importation: (1) of works of art brought in by foreign artists, lecturers or scientists for purposes of temporary exhibition or illustration and not for sale; (2) of works of art imported by public institutions for purposes of exhibition and, in case of a municipal corporation, for the purpose of erecting a public monument and not for sale; and (3) of works of American artists, residing temporarily abroad, imported for presentation to the government, religious societies, colleges or other public institutions. The new law goes a step further, allowing the free importation for private use of paintings, sculptures, engravings and the like that have been in existence for more than twenty years, and of

> other works of art (except rugs and carpets), collections in illustration of the progress of the arts, works in bronze, marble, terra cotta, parian pottery or porcelain, artistic antiquities and objects of art of ornamental character or educational value which shall have been produced more than one hundred years.

The main argument advanced in opposition to this measure was that art works are mainly purchases by the rich, who are well able to pay the duty. The most effective answer to this objection was that of Senator Lodge: "These works of art, brought in by individuals, in the history of all countries have inevitably found their way to museums and other places where the great works of art are preserved for the benefit of the entire public."

GEORGE M. FISK.

MADISON, WISCONSIN.

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THE REORGANIZATION OF MUNICIPAL GOVERNMENT IN PORTO RICO. II: FINANCIAL

IN describing the political reorganization of the municipalities of Porto Rico,[1] I purposely made as little reference as possible to provisions having to do with financial matters. Consideration of these provisions was postponed because the importance of the subject is such that it merits special and distinct treatment and because the difficulties encountered in bringing about the reforms desired were so many and so great that a series of laws, instead of a single enactment, was found to be requisite. The deplorable financial condition of the municipalities and the unsatisfactory methods pursued by them in the management of their finances when the work of reorganizing municipal governments in the island was actively taken up in 1902 have already been described. In order, however, that the account that follows of the action taken to correct these evils may possess definiteness, it may be well, at the risk of some repetition, to enumerate the more important concrete problems that had to be met.[2] They were: (1) the making of immediate provision for the funding or payment of the outstanding floating obligations with which the municipalities were burdened; (2) the taking of precautions to insure that all future obligations should be promptly met as they accrued and that no new debts should be incurred to take the place of those extinguished; (3) the requirement of at

[1] A study of the political reorganization of municipal government in Porto Rico was published in the September number of this QUARTERLY (vol. xxiv, pp. 409–443).

[2] The author, in his annual report as treasurer of Porto Rico for the year ending June 30, 1907, taking account of the facts that that report would be his last as treasurer of the island and that his incumbency of the office had to so large an extent covered the period of civil government up to that date, made an especial effort to present a comprehensive account of the financial history of the island, insular and local, since the American occupation, together with detailed statistical tables covering this period. In the account of the financial reorganization of the municipalities that follows this material has been freely drawn upon. The report itself appears in the Annual Report of the Governor of Porto Rico for the year ending June 30, 1907.

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least a minimum of economy in the administration of affairs by imposing reasonable restrictions upon the right to create offices and pay salaries; (4) the insuring that municipalities should devote a due proportion of their total income to the two most important duties with which they are charged, namely, the development of education and the construction and maintenance of local roads; (5) the careful regulation of the powers of the municipalities to incur bonded or other indebtedness; (6) the reform of the system of municipal dues, with a view to the increase of municipal revenues and the correction of certain undesirable features; and (7) the imposition of the obligation that municipalities should keep their books of account, receive, deposit and expend their public moneys and render reports in such a manner that the opportunities for fraud and misappropriation should be reduced to a minimum, and that clear and detailed information should always be available regarding all financial transactions.

I

Of these various considerations, that relative to the liquidation of outstanding floating obligations, amounting to more than half a million dollars, most urgently required action. Until the payment of these debts was in some way provided for, it was impossible for the municipalities to conduct their affairs with due regard to current needs. The problem of providing for the extinguishment of these debts was rendered difficult by the fact that the great majority of the municipalities could neither make immediate payment of them out of current income, since the total of such annual income was in most cases less than the debts owing, nor fund them by the issue of bonds, since, if exception be made of the three or four more important municipalities, the amount involved in the case of each municipality was not sufficient to warrant the expense and trouble incident to the issue and sale of bonds, or the expectation that purchasers would be found for such issues.

In view of these and other considerations, it was decided that the best, if not the only, method of action lay in authorizing the municipalities to convert all of their outstanding obligations

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into interest-bearing certificates that should be paid in annual installments extending over a period of years. This was accordingly done. A special act was passed, approved March 1, 1902, by which it was provided that all municipalities desiring to do so might convert all of their obligations remaining unpaid June 30, 1902, into certificates of indebtedness bearing interest at the rate of three per cent per annum, payable when such certificates were finally taken up and canceled. It was of course optional with the creditors to accept these certificates in payment of their claims, but the advantages of having their claims thus converted into interest-bearing securities were so manifest that there was never any doubt about the creditors availing themselves of the law. These certificates were to be issued directly to the individual creditors, were to be negotiable by endorsement, were, as stated, to bear interest at the rate of three per cent per annum, payable when the certificates were paid, and were to be redeemed by the municipalities in five annual installments. That there might be no doubt about the prompt payment of such certificates as they fell due, the law provided that the treasurer of Porto Rico should retain each year from the property taxes collected on behalf of the different municipalities a sufficient sum to pay the certificates falling due during that year and should pay such certificates when presented to him. This provision made it absolutely certain that the certificates would be paid as they fell due, that holders of claims would request their conversion into certificates, and that such certificates would be easily negotiable.

The administration of this law was naturally entrusted to the treasury department. In performing this work every possible precaution was taken to prevent the issue of a certificate in payment of a claim that was not legally due. All claims for the issue of certificates had first to be passed upon and approved by the municipal authorities and then sent to the treasury department. Here they were reëxamined, and no certificate was issued until the department was satisfied that the claim was a just one and that all legal requirements had been complied with. In point of fact, so far as is known, not a single certificate was improperly issued or denied. In all respects this act worked

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without a hitch and with perfect satisfaction to all parties interested. Through its operation the amount of old indebtedness was definitely determined; the municipalities were able on July 1, 1902, to reorganize under their new form of government, with definite provision made for all outstanding obligations; and those obligations have in fact been paid. The five-year period during which these certificates were to be extinguished expired June 30, 1907, and on that date all of the certificates had been presented and paid. The total amount of indebtedness extinguished, either in this way, or by direct payment by the municipalities from their treasuries, which was possible in a few cases, or by the floating of bonds by the four chief municipalities of the Island, San Juan, Ponce, Mayaguez and Arecibo, for this purpose and for the further purpose of providing funds with which to make urgent public improvements, was, as is elsewhere stated, $501,128.15.

II

The foregoing action, by which payment of existing obligations was provided for, would evidently have furnished only a temporary improvement of conditions, had rigid provisions not been made at the same time to ensure that municipalities should not incur obligations in the future beyond their ability to pay. This consideration was met, in the framing of the general municipal law, by the insertion of provisions determining carefully and in detail the manner in which the municipalities should appropriate money and the conditions to be observed by them, with a view to making certain that all future obligations would be promptly met as incurred.

In the first place, the law provides that each municipality shall make provision for all its expenditures during the fiscal year in a single appropriation bill, and sets out in detail the exact procedure that must be followed in framing such bill, in order to insure that the municipal council, in taking action, shall have before it all the data necessary to enable it to act intelligently, and that the total sum appropriated shall be based strictly upon available income. The law provides that, on or before April 1 of each year, the comptroller of each municipality shall submit

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to the *alcalde* a statement showing in detail the receipts of the municipality from all sources during the preceding fiscal year and during the first six months of the current fiscal year, together with a statement in detail of the expenditures of the municipality during the preceding fiscal year. With these data before him it becomes the duty of the *alcalde* to draw up an estimate of the receipts and expenditures for the succeeding fiscal year, and to submit it, on or before May 1, to the municipal council as a proposed budget.

Together with this statement, the *alcalde* must also submit a further statement showing the license taxes, permits, charges for the use of municipal property and all other taxes and imposts in force for the current fiscal year and the schedule of charges that in his opinion should be fixed for the ensuing year. The municipal council thus has before it precise data relative to the financial operations of the municipality in the past upon which to base provisions for future needs. The council can either accept the proposed budget as submitted by the *alcalde* or modify it. As framed by the council, the budget must then be posted for public inspection in a conspicuous place in the city hall for a period of ten days, during which time any taxpayer or person interested may address the council, making such objections and suggestions relative to the proposed budget as he thinks proper. On the expiration of this time, the council must reconsider the budget and take definite action. If the budget conforms to all legal provisions it must be approved by the *alcalde*. If the latter believes, however, that all legal requirements have not been complied with, he must return the budget to the council, indicating the features in respect to which he believes improper action has been taken. The council must thereupon reconsider the budget and, in doing so, can either modify the budget as originally approved, so as to meet the objections of the *alcalde*, or can override such objections by a two-thirds vote. The final decision thus rests with the council.[1] In case the municipal authorities fail for

[1] This is the provision of the law as it exists at the present time, in virtue of amendments made in 1906. The original act of 1902 placed the decision of disputes between the *alcalde* and council relative to the budget in the hands of the insular

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any reason to pass the budget, it is provided that the governor of Porto Rico shall prepare and promulgate a budget or declare that of the previous year in force.

One of the features of the old system most responsible for the bad financial conditions into which the municipalities had fallen was the general practice, on the part of municipal authorities, of basing expenditures upon estimated rather than upon actual receipts. If the persons responsible for making the estimates really exercised their best judgment and took care to make their estimates conservative, there is no reason why this method could not properly be employed. Experience in Porto Rico, however, showed that the municipal authorities in almost all cases failed to act in this conservative manner. On the contrary, every effort seems to have been made to put the estimates as high as possible, in order to permit of correspondingly high appropriations. If municipalities were to be compelled in the future to keep their expenditures within their available income, it was imperative that some limitation should be placed upon the total amount that might be appropriated during any year. Such a limitation was accordingly imposed by the provision that the aggregate of expenditures authorized should in no case exceed twice the actual receipts from ordinary income during the first six months of the current fiscal year, plus any surplus on hand at the beginning of such year.

The law of 1902, as originally enacted, provided that after a budget had once been passed no further expenditure of any kind could be authorized nor any payment be made during the year to which the budget related, except as provided for in the budget. It must be admitted that this provision tied very

government. It provided that in case the *alcalde* returned the budget as passed by the council with objections to certain features of it, and the council was unwilling to meet such objections, the budget should thereupon be sent to the treasurer of Porto Rico, whose decision regarding the points at issue should be final. The repealing of this provision and the vesting of final decision in the municipal council is but one of many instances in which the insular government, as municipal conditions on the island have improved and greater capacity has been shown by the local authorities in the management of public affairs, has progressively surrendered its control over such affairs (which at the outset was absolutely essential) and has thus steadily broadened the powers of self-government of the municipalities.

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strictly the hands of the municipalities and made it difficult, if not impossible, for them to meet unforeseen contingencies. The adoption of the policy involved in this provision was deemed to be justified, however, even though it might work badly in particular cases, in view of the bad practice that had so long existed and had become so ingrained, of habitually disregarding budgetary limitations, that is, of giving slight permanency to the budget, as first passed, by introducing all sorts of modifications on the slightest provocation. It was felt that, if the practice of sound finance was ever to be inculcated upon the municipal authorities, it was imperative that they should be made to understand that their budget of annual expenditures should be prepared with the greatest possible care and foresight with reference to anticipated receipts and needs of the year, and that once made it should be rigidly adhered to.

The results have fully justified this policy, and each municipality now realizes, as fully as the insular government itself, that public expenditures are to be provided for by a definite appropriation bill. With this lesson learned, it has been possible to give somewhat greater flexibility to the system, by making it possible for the municipalities to meet new or changed conditions arising during the year. The act of 1906 provided that after the budget goes into effect a transfer may be made from one item to another by ordinance of the municipal council, passed by a two-thirds vote of its entire membership; and a further act, approved March 8, 1908, provided that, in case a municipality closes any fiscal year with a cash surplus over and above all obligations outstanding and not provided for, it may make a supplemental budget to the amount of half of such cash surplus, to provide for expenditures for "public works or increasing existing appropriations, other than administrative expenditures." This law took account of the fact that the municipalities were obtaining a constantly increasing income and that, unless some such provision was made, surpluses would be accumulated in their treasuries. It was deemed better to authorize the expenditure of these surpluses in this way, as soon as they had actually been accumulated, than to require that they be kept intact until the next regular budget should have been voted.

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It was not sufficient, however, to enact that the municipalities in framing their budgets should not vote sums in excess of their available income; it was necessary also to require that these bodies should promptly make provision for the payment of all obligations incurred before authorizing new expenditures. This consideration led to the provision of the law of 1906, which reads that each municipality, in framing its budget,

> shall first make provision for the meeting of any deficit that may have resulted from the operations of prior years, or expenditures for which it is legally obligated in consequence of contracts already entered into, or for other reasons; all payments or expenditures imposed upon it by the laws of Porto Rico; and all payments or disbursements on account of final judgment rendered against it by any competent tribunal. If any municipality fails to make adequate provision in its budget for the payment of any or all of the obligations herein provided for, or if during any fiscal year to which a budget relates any municipality fails to liquidate such obligation prior to the legalization by the council of its budget for the next succeeding fiscal year, any person aggrieved thereby, or the attorney-general at the instance of the treasurer of Porto Rico, may apply to the district court for mandamus to compel the delinquent municipality to comply with its obligations in such matters as provided by law, and the court shall render such judgment and issue such orders as the facts and law justify.[1]

These two provisions, relative to the total amount that may

[1] It is of interest to call attention to the method here provided of enforcing, through resort to the courts, the meeting of all financial obligations by the municipalities. The act of 1902 imposed this duty upon the treasurer of Porto Rico. It provided that "if any municipality fails to make adequate provision in its budget for any year for the meeting of any or all of the obligations above specified in this section, its budget for the next fiscal year shall be submitted to the treasurer of Porto Rico and it shall be the duty of said treasurer of Porto Rico to make such changes in said budget as he deems necessary or advisable for ensuring the meeting of such obligations by the municipality, which changes may be in the way of reducing or eliminating items of expenditure or in raising the rate of proposed license taxes or other levies." This, it will be seen, was, in effect, putting the municipality in the hands of a receiver, the treasurer of Porto Rico acting in that capacity. The change to the method now in force was made in pursuance of the policy mentioned in a preceding note, under which the insular government has surrendered its power of intervention in an administrative capacity as rapidly as it was believed that improved conditions rendered such action safe.

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be appropriated by a municipality during any one fiscal year, and the obligation imposed upon each municipality to provide for the payment of all outstanding debts make it practically impossible for municipalities to incur obligations that they can not or will not pay and practically certain that these bodies will always be upon a solid financial basis.

III

As regards the effort to secure economy in municipal administration, mention has already been made in my previous article of a number of provisions that were inserted in the law with this end in view. Among these the most important is that by which the municipalities are divided into three classes, in order that a simpler and more economical form of government may be provided for the less important than for the more important municipalities, although the general scheme of government is the same for all. Another provision of the law, having the same object, is one which was adopted in 1906, and which provides that in no case shall the total appropriations for administrative expenses, consisting of salaries of officials and employees and contingent expenses of their offices, exceed fifty per cent of the total amount appropriated. Although in some cases this provision may have restrained municipalities from devoting too large a proportion of their expenditures to these purposes, it is doubtful whether the tendency to extravagance in this direction is so strong as to require this rather arbitrary limitation. At the same time there is no evidence that it has worked any hardship.

IV

While thus making provision for a form of organization as economical as circumstances would permit, it was felt that equal care should be taken to compel the municipalities to devote as large a proportion as possible of their income to works of real public utility. No shortcoming of the old municipalities was more marked than their failure, not merely to make any return for taxes collected in the way of works of public utility, but even to realize that this was one of their essential functions. The attention of officials was concentrated upon

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creating unnecessary offices and paying as high salaries as they dared to themselves and their friends, while the most crying needs of their districts were neglected. This was particularly true as regarded education and roads. Especial pains were therefore taken, in framing the new law, to ensure that these subjects should receive at least a minimum amount of attention. This was accomplished by incorporating in the law the provision that certain proportions of the receipts of each municipality from the general property tax, the chief source of municipal income, should be devoted to these purposes. These proportions have been changed a number of times, but always in the way of increasing them; and today they are twenty-five and eight per cent respectively. In the case of the school funds, the sums so apportioned are paid over directly to the local school boards to be expended by them; in the case of the road funds, the money is carried by each municipality to a special fund which can only be used for purposes of road improvement. As regards the expenditure of the latter, the law further provides that the insular bureau of public works shall exercise technical direction and immediate supervision over the plans for and the execution of this work.[1] As a result of this provision all the municipalities are now doing a great deal in these directions. The tables included in this article (pages 96–99) show that in the fiscal year ending June 30, 1908, the total expenditure of the municipalities for education, including the amounts raised by the special school tax, was $322,300.90, and for road improvement $114,332.90; the two items together representing $436,633.80, or twenty-two per cent of total municipal expenditures.

V

One of the most important questions concerning the financial powers of the municipalities that presented itself for settlement was that relative to the authority that these bodies should have to incur bonded indebtedness and the conditions under which

[1] A description has already been given in my first article of the effort that was made, at the outset, to provide for the performance of this work through special road boards and of the abolition of these boards on account of the bad results obtained.

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such authority, if granted, should be exercised. Partial action in respect to this matter was taken at the first session of the first legislative assembly in 1901. By an act approved January 31, 1901, authority was granted to any municipality having a population of ten thousand inhabitants or over, upon receiving the approval of the executive council and upon complying with the provisions set forth in the act itself, to incur bonded indebtedness for the purpose of funding its outstanding obligations or of making public improvements. The more important provisions of this act were: that the total amount of bonded indebtedness that might be outstanding at any one time should not exceed seven per cent of the assessed value of the property for purposes of taxation in the municipality; that the bonds when issued should bear interest at a rate not to exceed six per cent per annum, should be sold at not less than par and should be redeemable in ten and payable in twenty years; that provision should be made for a sinking fund for the payment of the bonds upon their maturity; that a special tax should be levied, sufficient in amount to realize the sum required for meeting all interest and sinking-fund charges as they became due; and, finally, that the approval of the executive council should be obtained, not only for the contracting of the loan, but also of the form of the bonds and, generally, for all the steps necessary in connection with their sale and their subsequent payment.

This act has remained unchanged and has been specifically continued in force by the general municipal law as revised in 1906. Immediately upon the passage of this act, the four most important municipalities of the island, San Juan, Ponce, Mayaguez and Arecibo, sought and obtained authorization from the executive council to issue bonds in accordance with its provisions, and in due time they succeeded in selling such bonds. The San Juan loan was for $600,000; those of Ponce and Mayaguez, for $200,000 each; and that of Arecibo, for $100,000. All these loans bear interest at the rate of six per cent per annum and were issued as of date of January 1, 1902. The Mayaguez and Arecibo bonds were sold at par; a premium of 3.065 per cent was obtained in the case of the San Juan loan, and a premium of 3.5 per cent in the case of the Ponce

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loan. The purposes for which these loans were issued were partly to fund or refund prior outstanding obligations and partly to undertake certain important public works. Nearly one-half or, exactly, $545,476.09, was for the former purpose, and $554,523.91 for the latter. In accordance with the provisions of the act under which the bonds were sold, provision was made in each case for a sinking fund, into which there has been annually paid by the four municipalities the sum of $55,000. Interest at the rate of slightly over three per cent is obtained on this fund, which is compounded semi-annually. On June 30, 1908, there had thus been deposited in the four sinking funds a total of $330,000, and the earnings of the funds had amounted to $31,703.78; so that the total amount standing to the credit of the funds on that date was $361,703.78. In addition, the four municipalities had on hand a total of $100,517.76, representing the proceeds of the special tax levied for bond interest and redemption purposes, that was available for the payment of future interest and sinking-fund charges. A considerable start has thus been made toward the accumulation of funds with which to pay the bonds on their maturity.

This act, authorizing the more important municipalities, upon receiving the approval of the executive council, to incur bonded indebtedness, did not wholly meet the needs of the municipalities in respect to the securing at one time of funds sufficient in amount to enable them to undertake permanent work of public improvement. In the first place, this act applied only to certain municipalities; and here the necessity of levying a tax upon property with which to meet interest and sinking-fund charges imposed so great a burden upon taxpayers that it was not desirable to take advantage of the law except in cases of extreme urgency. In the four towns that did avail themselves of the provisions of this act the total tax rate upon property had to be very materially increased, this increase in several cases more than doubling the rate for municipal purposes.

To negotiate a sale of bonds, moreover, is a matter that entails so much trouble and expense that resort to this method of using public credit is hardly justified unless a very considerable sum of money is desired at one time. It is also doubtful whether

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municipalities situated as are those of Porto Rico could succeed in selling bonds where the total issue is for a small amount; for in such cases prospective investors would not find it worth while to make the necessary investigations relative to the financial and economic conditions of the municipality and the authority under which it was acting. While few of the municipalities thus required large enough sums to justify the issue and sale of bonds, all, or nearly all, were in urgent need of moderate sums, running from $5000 to $50,000, with which to make such improvements as the construction of water works, markets, slaughter houses, hospitals, school buildings, city halls, improved streets and highways and the like. To meet this need, the insular legislature passed an act, approved March 10, 1904, authorizing the insular treasury to make loans to the municipalities and local school boards from its general balance of insular funds.

The provisions of this act were subsequently incorporated, with a few minor changes, in the general municipal law of the island as revised in 1906. In accordance with these provisions, any municipality may, by ordinance duly enacted, petition the executive council to authorize the grant to it of a loan from the insular treasury. This ordinance must state definitely the amount required, the exact purpose or purposes to which the money loaned is to be devoted and the rate of interest to be paid, and it must provide for the repayment of the loan in annual instalments and authorize the insular treasury to retain from property-tax collections made on its behalf the sums necessary to meet the annual instalments as they fall due and to pay the interest provided for. In practice, the rate of interest has invariably been three per cent, and the longest term for which a loan has been granted has been ten years. In the great majority of cases, where relatively small amounts are involved, repayment is provided for in five years or less.

It is difficult to exaggerate the benefits that have resulted from these arrangements. During the four years that the system has been in operation, loans to the total amount of $1,005,098.94 have been authorized, of which $779,056.61 were loans to municipalities and $226,042.33 loans to school boards. The money thus authorized to be loaned is not actu-

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ally paid to the municipalities and school boards until needed by them. Thus, of the total amount authorized to be loaned, the municipalities had received up to June 30, 1908, only $594,640.18 and the school boards only $137,416.34, or a total of $732,056.52. Of this amount the municipalities had repaid $227,033.94 and the school boards $49,464.63, thus leaving due to the insular treasury from the municipalities $367,606.24 and from the school boards $87,951.71, or a total of $455,557.95. Altogether 92 different loans were made to municipalities and 59 to local school boards. In some cases the same municipality has received two or more loans.

This system of granting loans from the insular treasury to the municipalities and school boards has proven beneficial alike to it and to them. The insular treasury has, in effect, invested its available surplus at three per cent with perfect security, as, owing to the fact that the insular government collects the general property tax and repays itself by retaining from the collections on behalf of the municipalities the sums necessary to meet interest and instalment payments, there can never be any doubt about such payments being promptly made. The municipalities and school boards, on the other hand, have obtained the money of which they have need with practically no trouble, with no expense, and at the extremely low rate of interest of three per cent. The possibility of securing these loans has enormously stimulated works of municipal improvement throughout the island. With the money thus obtained, various municipalities have vigorously entered upon the work of equipping their urban districts with waterworks, hospitals, markets and public improvements of all sorts. Thus, the towns of Caguas, Coamo, Yabucoa and Aibonito have waterworks which cost $60,000, $25,000, $20,000 and $8,000, respectively; San Juan has extended its sewer and sidewalk system at a cost of $52,000; Guayama has provided for the erection of a covered market at a cost of $16,000; and scores of other cities have similar works under way. Of the $226,042,33 loaned to the school boards, $199,600 has been for the purpose of erecting new school buildings.

Two collateral advantages of this system should be noted, the

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one pertaining to the insular government, the other to the municipal governments. Under this system of loans the insular government in a way distributes over the future the present great prosperity of its finances. Without this system, the insular government would not be justified in collecting and holding in its treasury a large surplus; and with such a surplus it would be impossible to resist the demand for large appropriations. By loaning out such surplus the money available for appropriation is correspondingly reduced; and for the next ten years the insular treasury will have a steady and important source of income through the payment of the annual instalments of the loans as they fall due. The collateral advantage to the municipalities results from the fact that, by thus contracting loans, they in effect pledge their available income, during the years for which the loans run, to works of public improvement to the extent to which the payment of the annual instalments constitutes a charge upon their budgets. As has been elsewhere stated, one of the chief objects sought in reorganizing the municipal life of the island was to induce the municipalities to devote as large a portion as possible of their total income to works of actual public utility. This system, by which the municipalities receive loans from the insular treasury and pledge their future revenues to the meeting of interest and repayment of principal charges, has accomplished this very desirable object.

In the great majority of cases, moreover, it should be noted that the public works of which the construction has been undertaken are revenue-producing properties, and that to a very large extent the revenues to be obtained from them will meet the interest charges incurred and, in time, produce a sum more than sufficient to offset the principal of the debt incurred. The inauguration and construction of these works of public utility has, moreover, had a marked effect upon the attitude of the people themselves toward their local governments. For the first time they have seen these governments actively engaged in the prosecution of works of direct advantage to them. This has given them a new idea regarding such governments, and has directed their interest in local affairs into more legitimate channels than in the past.

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The general municipal law, as revised in 1906, also authorizes municipalities, upon receiving the approval of the executive council, to borrow money directly from banks or other financial institutions. This provision was inserted in anticipation of the possibility of the insular government not having sufficient funds available for making all the loans which municipalities and school boards might need. No resort has yet been had to this provision of the law.

VI

The matter of introducing modifications into the system by which the municipalities receive their income, with a view to increasing such income and eliminating certain objectionable features, evoked little difference of opinion regarding the general policy that should be pursued. It was evident that the municipalities were in urgent need of more money, not only to pay the debts with which they were burdened, but to perform more efficiently public duties of all sorts and to undertake public improvements of almost every description.

The general revenue law of the island, as enacted January 31, 1901, unfortunately made no clear distinction between insular and municipal sources of income. Aside from minor sources of income, this law provided for the securing of revenue through two main systems of taxation: namely, excise duties on spirits, tobacco *etc.*, and taxes on real and personal property. Taxes of both sorts were made sources of income for both the insular and the municipal governments: the first, by assigning a proportion of the excise receipts to the municipalities; and the second, by providing that the insular tax rate should be one-half of one per cent of the assessed value of the property, and that the municipalities might impose not to exceed the same rate—a power which has been almost invariably exercised. This union of the tax systems of the central and local governments is, as has been stated, to be avoided if possible. Particularly is this true in a country which pursues the policy of attempting to develop a vigorous municipal life. In the case of Porto Rico the logical assignment of taxes to the different political bodies is evidently to devote the excise taxes exclu-

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sively to insular purposes and the general property tax, as far as possible, exclusively to municipal purposes. This, consequently, is the policy that has been consistently followed in amending the original act. On the one hand, excise taxes have been made a source of income for the insular government exclusively, and, on the other, the municipal portion of the total general tax levy of one per cent on the assessed value of property has been progressively increased, until, at the present time, the municipalities receive nine-tenths of the proceeds and the insular government one-tenth. The property tax has not been assigned wholly to the municipalities, because it is believed to be desirable that the insular government should continue to perform the work of assessing the property, collecting the taxes and otherwise administering the system, and the income derived by the insular government from its small proportion little more than covers the cost of administration. In making this change in the tax system, the revenues of the municipalities have been materially increased, their larger share of the proceeds of the property tax much more than compensating them for their loss of a quota of the excise taxes.

In still another direction an important change was demanded in the tax system of the municipalities. One of the most unsatisfactory features of this system, as first organized after the establishment of civil government, lay in the practical operation of the section of the general revenue law allowing the municipalities to levy so-called *patente* or license taxes upon industrial undertakings, commercial establishments, the practice of professions and trades and like forms of activity. The power to levy and collect this tax had been possessed by the municipalities under the Spanish régime. It was reaccorded by the general act of January 31, 1901, but with evident reluctance, since that act provided that the power to levy and collect this tax should continue during the next fiscal year only, unless the legislature should otherwise determine. That it was not immediately abolished was due to the fact that it was deemed unwise to deprive the municipalities of this source of income until the productiveness of the general property tax could be determined. In thus framing the law with a view to the early abo-

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lition of this tax, the legislature was evidently influenced both by the disfavor with which this form of taxation is looked upon in most states of the Union and by the many evils attending its administration in Porto Rico. Only too often did the municipal authorities make use of their power to impose this tax to favor their personal and political friends and to punish their enemies. It is true that the revenue act of 1901 provided that no such schedule of taxes should be imposed by a municipality until it had received the approval of the executive council; but, as that body had scant information upon which to go in passing upon the schedules submitted to its consideration, it was unable to detect and correct any but the most glaring cases of injustice. This arrangement was open to the further objection that the council was burdened with a task making considerable drafts upon its time.

As the general revenue act, as stated, kept this tax in force for one year only, it became necessary at the next session of the legislature to determine whether it should be retained or abolished. Nothwithstanding the fact that this form of taxation is looked upon with so little favor in the United States, it is in itself by no means a bad tax as applied to conditions prevailing in Porto Rico. The general property tax falls almost exclusively upon agricultural property, while the merchants and professional classes either are not reached at all or are reached only to the extent of the stock in trade carried by them. The value of this stock in trade at any given time constitutes but a very imperfect measure of the importance of the enterprise; and merchants and others doing a large business often escape with the payment of a relatively small property tax. If equitably assessed and collected and moderate in amount, there is no reason why a system of license taxes may not well be utilized to supplement or complement the general property tax by reaching these classes of persons. The municipalities, moreover, can not well do without the income obtained from this source. The main question, therefore, was whether the tax could be made a more equitable one in its actual administration. The legislature believed that this could be done, and results have fully justified its belief. To secure this end the following

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changes in the law were made. Instead of leaving to each municipality discretion to determine the classes of merchants, manufacturers and others who should be taxed and the amount of the taxes that should be paid by them, such determination to be subject to revision by the executive council, a detailed classification of all industries and trades subject to this tax and the maximum amount of tax that may be imposed are set forth in the general municipal law. Account is taken of the different conditions prevailing in different municipalities by providing one maximum for municipalities of the first class and another for those of the second and third classes. This schedule was prepared after a careful study of the past practice and of the relative importance and tax-paying abilities of the different classes subject to the tax. Care was also taken to make the maxima less than those which the various industries had in the past been accustomed to pay. To prevent the municipal authorities from treating the different classes of industries inequitably, the law provides that the rate to be fixed by them shall be the maximum established by the law or a certain percentage of such maximum, such percentage to be the same for every class of commercial licenses. Thus the municipalities have the option of imposing and collecting either the maximum rates set forth in the law, or one-fourth, one-half, three-fourths or any other fraction or percentage of these rates. In order that individual taxpayers may have security against being improperly classified, the law provides that the list of individual firms or commercial houses taxed, together with the amount of the taxes paid by each, shall be posted conspicuously in the city hall for at least ten days before final action, during which time any taxpayer, who believes himself to be unjustly or erroneously taxed, may protest to the municipal council against the action proposed in his case. The practical result of this legislation has more than met expectations. Not only do the municipalities receive a far greater income from this source than they formerly enjoyed, notwithstanding the fact that the rates authorized are generally, if not always, lower than those formerly imposed, but practically no complaint is heard from the persons taxed. It may be that this form of taxation is not from every point of

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view the most desirable, but it can be said with certainty that it is now working smoothly in Porto Rico and should be retained until the municipalities can obtain an equivalent income in some other more advantageous way.

Finally, before leaving this subject of municipal income, attention should be called to the fact that, owing to the extent to which the various municipalities have developed their systems of water works, markets, slaughter houses and other revenue-producing properties, greatly increased receipts, both gross and net, are being obtained from these sources.[1]

VII

Of all the actions taken for the improvement of municipal conditions in the island, far the most successful, as regards the results obtained, and the most important as regards the actual influence upon municipal life, is the provision that was made for the establishment of a system of uniform accounting and reporting by the municipalities. For years it has been recognized by those persons who are most deeply interested in the reform of municipal government in the United States that the first and prime requisite to a permanent improvement of conditions lies in the requirement that municipalities shall keep their books of account and render their reports in such a manner that their financial operations and conditions may at all times be known, and that, as far as possible, the same system of accounting and reporting shall be followed by all municipalities. In this way only can comparisons be made of policies pursued and results obtained—comparisons of municipality with municipality and of year with year. Data of this kind are necessary, not only in order that the public may have that knowledge to which it is entitled of the manner in which its governments are being run, but that the municipal officials themselves may always know just how the operations of the government for which they are responsible are being conducted.

Desirable in any commonwealth, the adoption of such a system under the conditions prevailing in Porto Rico was an

[1] For the exact amount of this increase, as well as the augmented income obtained from other sources, see the tables on pages 96-99.

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absolute essential to any intelligent action looking to the improvement of local government in the island. When civil government was organized, there was an almost complete absence of any authoritative data showing the real conditions of the municipalities, from what sources they obtained their incomes and for what objects they made their expenditures. The result was that it was impossible to determine accurately what were their real needs as regards income. More than this, so complete was the absence of any proper system of auditing and control that opportunities for fraud existed on every hand and were only too frequently utilized. Evidently, in view of this condition of affairs, the first step to be taken by the insular government in meeting its obligation to secure good municipal government in the island lay in the securing of the facts upon which to base intelligent action and in taking immediate steps to prevent fraud. This object could be fully attained only by providing that authority should be vested in some insular official to prescribe a uniform system of municipal accounting and reporting, and to supervise the operation of the system after its establishment, in order to insure that its provisions should be rigidly observed. There was in existence in the office of the treasurer a bureau of municipal finance; and it therefore seemed proper that this duty should be intrusted to the treasurer, and that the bureau of municipal finance should be reorganized to take charge of the administration of the system.

Provisions were accordingly incorporated in the new municipal law, approved March 1, 1902, by which the treasurer of Porto Rico was authorized, in the broadest terms possible, to prescribe the manner and form in which the municipal treasurers and comptrollers should keep their books of account, deposit all moneys and make all disbursements, and to require of such officers such annual and other reports as he deemed desirable. He was furthermore authorized himself to make, or to appoint some competent person or persons to make, a detailed examination of the financial operations of any municipality whenever he deemed conditions to be such as to warrant such action; and in making such examinations he, or his deputy, was given power to administer oaths, to compel the

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appearance of witnesses, the production of books, papers, securities *etc.* If, as a result of such examination, he discovered that fraud was being committed, or that the financial affairs of the municipality were being incompetently administered, or that his regulations relative to accounting and reporting were not being observed, it was his duty to report the fact to the governor of Porto Rico, who, in such cases, had the authority summarily to remove the delinquent officer and to request the attorney-general to institute such civil and criminal proceedings as conditions might justify.

This scheme of the supervision of municipal finances by the insular treasurer comprehended the taking of three successive steps: (1) the preparation of a code of regulations, setting forth in detail the precise manner in which the municipal treasurers and comptrollers should keep their books of account, deposit all funds, audit all claims and make all payments from the municipal treasury; (2) the requirement of systematic reports, showing the actual financial transactions and conditions, and their subsequent compilation and analysis, so that such operations might be clearly seen; and (3) the organization of a system of inspection and audit by officials attached to the office of the treasurer, in order that the department might know whether its orders were being complied with and whether municipal affairs were being honestly and efficiently conducted.

Immediately upon the passage of the law of March 1, 1902, the treasury department, through its bureau of municipal finance, entered upon the work of preparing the rules and regulations relative to accounting and reporting that were to go into effect July 1, 1902. These regulations set out in detail the exact books which must be kept by the municipal treasurers and comptrollers, the manner in which moneys must be deposited, the requirements that must be met and the vouchers that must be produced before comptrollers can order any payments to be made, and the conditions that must be complied with before the treasurers can make such payments. In all cases blanks or model forms are given in the regulations, showing the exact character of each book, voucher, warrant or other document that must be used. By subsequent action of the legislature, the

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insular bureau of printing and supplies was authorized to furnish these forms to the municipalities of the island at cost. Thus, at the present time, not only is the character of the forms prescribed, but, with few exceptions, the forms themselves are furnished. In thus devising a system of accounting and reporting for the municipalities, the fact had to be constantly borne in mind that the system would have to be administered by persons in great part lacking in skill and technical training as accountants. The greatest care was therefore taken to make the system as simple and as easily understood as possible; while the regulations themselves had to enter into the minutest details and, in fact, almost constitute a text-book on accounting.

Briefly, the system provides that moneys due the municipalities shall be paid to, and that disbursements shall be made by, the municipal treasurers exclusively; that wherever possible some banking or other institution shall be made the depository of the public funds; that all moneys received shall be deposited with such depository, and that all payments shall be made exclusively by drafts upon such institution; that payments shall be made by treasurers only upon warrants drawn by the municipal comptrollers and countersigned by the *alcaldes;* that the municipal treasurers shall issue receipts for all moneys received by them, which receipts shall not be valid until countersigned by the comptrollers, who shall keep a record of all receipts so signed; that the comptrollers shall carefully examine all claims against municipalities and shall not issue warrants for their payment until they have satisfied themselves that such claims are just, that there is an appropriation therefore in the budget, that the same is not exhausted, that there are funds on hand available for their payment, that the expenditures are duly evidenced by proper vouchers, and that the proper officers have certified that the services or supplies represented by the claims have actually been rendered or furnished. Record of all these transactions must be kept in the books of account as prescribed by the regulations.

The second step involved in the establishment of a uniform system of accounting and reporting consisted in the requirement from the municipalities of reports of such a character as to

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enable the treasury department, not only to see how municipal finances were running from month to month, but to obtain the information relative to such operations in a form permitting the analysis of municipal receipts and expenditures in a way that would bring out the real financial operations of the municipalities. This end was attained by requiring from the municipalities quarterly and annual reports in the form prescribed by the treasury department. The quarterly reports consist of statements of receipts and expenditures. They are carefully examined in the department, as received, in order to determine whether the rules and regulations relative to accounting have been rigidly observed. This examination brings to light many errors in bookkeeping; and a considerable part of the work of the bureau of municipal finance consists in corresponding with the various municipal comptrollers and treasurers for the purpose of pointing out these errors and of giving instructions relative to what should be done in particular cases.

It is unnecessary to enter into further details regarding the character of the reports required. One point, however, should be stated and emphasized. The municipalities are required, in keeping their books and in rendering reports, to make a clear distinction between municipal funds proper—that is, funds available for ordinary municipal expenditures—and trust funds, or those of which the municipal treasurer is simply for a time the custodian or which are pledged to some particular purpose. In the same way, a careful distinction is required between entries in the books which represent real transactions—that is, money actually coming into the treasury from taxes or other sources of municipal income and payments actually made for services rendered or supplies furnished—and those entries which represent mere bookkeeping items, such as transfers, repayments and the like. The making of this distinction is essential in any system of governmental bookkeeping if the real financial operations of the government concerned are to be known. As a result of this distinction, the treasury department is able to prepare tables showing not only the gross receipts and disbursements of each municipality—by which is meant a statement of all entries of every character upon both sides of the

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ledger of the municipality—but also statements showing the municipality's net income and expenditures proper—that is, statements from which all receipts and expenditures on account of trust funds and of purely bookkeeping items have been eliminated, and which, consequently, yield the real information that is desired relative to municipal receipts and expenditures. From this latter table it is possible to ascertain the amount of money actually entering the municipal treasuries and available for municipal expenditures, the sources in detail from which such income has been obtained, the total of the actual expenditures made for carrying on the government and the purpose in detail to which such expenditures have been devoted. This distinction between gross receipts and disbursements and net income and expenditure constitutes, it is believed, the most important and valuable feature of the system of reporting and of analysis of municipal operations that has been adopted. By reason of it, it is believed that the financial operations of the municipalities of Porto Rico can be shown with a clearness and exactness that can not be equaled in the case of the municipalities of any other country.

It is impossible to exaggerate the importance of the action thus taken or to overstate the beneficial results that have followed from it. Porto Rico has thus, at an early date in the history of its civil government, met the one most important requisite to the securing of honest and efficient local government, and it is thus entitled to take front rank among commonwealths which are trying to place their systems of local government upon a solid foundation. It should be recognized that the value of this system consists not in enabling students to gratify their desire for knowledge, but in furnishing the data upon which municipal budgets of receipts and expenditures must be based and the information which the insular government must have if it is to act intelligently in authorizing municipalities to incur bonded indebtedness or in taking other action affecting their financial status. The securing and publication of this information, moreover, has had another very beneficial effect. For the first time the citizens of each municipality, and indeed the municipal officials themselves, are able to know the real

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financial conditions of their bodies and how their operations compare with those of prior years and of other municipalities. The diffusion of this information has developed an interest in municipal affairs and an emulation among the municipalities to make the best possible showing in comparison with other municipalities that it would be difficult for one to appreciate who has not been familiar with the attitude of the people and of local officials toward their governments before and subsequent to the introduction of this system.

These results, of course, were not obtained immediately. As regards the system of reporting and of analysis of the information received, it will be seen, by consulting the tables on pages 96–99, that neither of the tables covers the whole period elapsing since the introduction of the system on July 1, 1902. It was only as the system entered into operation that certain improvements suggested themselves. The features, however, in respect to which improvements could be made were ascertained at an early date, so that it has been possible to make both of the tables cover a series of years; and the writer now knows of no line of facts or class of information that it is desirable to have regarding the financial operations of the municipalities that is not covered by these tables. In the administration of the system great difficulty was, of course, encountered at the outset in instructing the municipal treasurers and comptrollers in their duties, and much more in making them comprehend that the rules and regulations of the treasury must be rigidly observed. In those instances, moreover, in which fraud and dishonesty were rife, an arduous campaign had to be inaugurated to unearth such dishonesty and to secure a return to honest government. Thus, the first result of the operation of the new system was to show that in a number of the larger municipalities, and notably in the capital itself, San Juan, and in Mayaguez, gross frauds and corruption were being practiced by municipal officials. In these two municipalities elaborate investigations were accordingly undertaken, a large amount of testimony was taken and detailed reports of findings were prepared. On the evidences thus discovered the *alcaldes* of these two towns and other officials who were apparently impli-

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cated in the frauds were summarily removed by the governor, and in a number of cases criminal prosecutions against them were instituted. Although the government failed to secure conviction in these cases, the chief object sought by the investigation, the removal of the officials under whom at least bad practices existed and the starting of the municipalities themselves on the new path of honest government, was secured. It has not been necessary to repeat these investigations on the same scale. They served to make known to the public that dishonesty in the administration of local finances would not be tolerated, and that all local officials would be held to a rigid accountability for all funds passing through their hands or over which they had any control.

Throughout the foregoing account of the work, legislative and administrative, that has been done for the reorganization of municipal government, the statement has frequently been made that the efforts put forth have been crowned with success. In point of fact, a perfect revolution has been worked. Properly to appreciate the change, one would have to be familiar with the old conditions as they existed when civil government was established and be able, in consequence, to contrast them with the present state of affairs; and this would mean that conditions in each municipality would have to be studied separately. Manifestly this is out of the question for any of the readers of this article. Thanks to the system of uniform accounting and reporting that has been described, it is possible, however, to present a combined statement for all municipalities that, from the financial standpoint, at least, will give a very fair idea of the progress that has been achieved.

The annual report of the treasurer gives, among other statistical showings, tables exhibiting the gross receipts and disbursements and the net income and expenditures of each municipality, separated in such a way that municipality can be compared with municipality and year with year. The data contained in all of these tables, for all years since the perfection of the system of uniform accounting and reporting, have been combined in the two tables printed on the following pages, the one

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TABLE I: GROSS RECEIPTS AND DISBURSEMENTS OF MUNICIPALITIES, BY

(*All municipalities*

ITEM	1903
Cash on hand at beginning of year	$724,879.12
RECEIPTS	
General property tax	$378,832.25
Bond redemption tax	129,441.33
School tax	32,533.52
Excise tax (municipal quota)	161,546.15
Taxes levied prior to July 1, 1901	13,205.69
Industrial and commercial taxes	104,575.90
Licenses, permits and certificates	56,366.21
Municipal property	177,648.18
Court fines	35,381.44
Interest on deposits	4,871.98
Insular loans	
Miscellaneous	18,834.70
Total receipts during year	$1,113,237.35
Total receipts, including balances on hand beginning of year.	$1,838,116.47
DISBURSEMENTS	
Bonded indebtedness, interest	$69,000.00
Bonded indebtedness, sinking fund	55,000.00
Certificates of indebtedness	65,942.08
Indebtedness of annexed municipalities	5,136.22
Insular loans, repayment, principal and interest	400.00
Administrative expenditures	200,459.86
Police department	42,619 40
Fire department	12,491.69
Lighting	68,876.75
Public works	218,975.92
Maintenance productive properties	53,246.24
Charities	12c,450.13
Public health	126,633.29
Education	179,408.81
Courts and penal institutions	70,575.50
Road funds	26,284.16
Traveling expenses	23,410.39
Civil register	14,305.93
Miscellaneous	46,595.99
Indebtedness insular trust fund	
Indebtedness teachers' pension fund	
Total disbursements during year	$1,399,812.36
Balances on hand at end of year	$438,304.11

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ITEMS, FOR FISCAL YEARS ENDING JUNE 30, 1903 TO JUNE 30, 1908 *combined*)

FISCAL YEAR ENDING JUNE 30				
1904	1905	1906	1907	1908
$438,304,11	$368,913.61	$321,258.32	$480,689.73	$596,537.43
$441,203.37	$724,906.32	$858,967.11	$981,874.67	$1,057,344.59
123,547.04	140,554.17	156,266.91	149,777.12	135,975.87
51,893.50	52,862.28	69,992.34	76,065.73	98,890.87
103,600.00	21,146.02			
9,263.92	3,483.29	873.02	36.39	33.36
111,850.19	93,400.39	115,225.93	142,110.68	162,980.44
45,825.82	26,837.64	24,347.27	12,971.03	13,613.58
201,566.98	231,507.94	344,796.36	272,038.74	269,797.19
35,102.63	18,109.52	26,340.85	27,724.65	25,560.70
5,133.29	15,660.36	3,295.32	3,350.07	396.98
	95,118.33	89,343.49	111,687.92	239,775.27
10,377.96	9,577.55	16,877.99	31,403.66	40,219.99
$1,139,364.70	$1,433,163.81	$1,696,326.59	$1,809,040.66	$2,044,589.14
$1,577,668.81	$1,802,077.42	$2,017,584.91	$2,289,730.39	$2,641,126.57
$72,000.00	$60,000.00	$72,000.00	$66,015.00	$66,015.00
	110,000.00	55,000.00	55,000.00	55,000.00
22,151.36	28,964.97	31,592.20	20,585.17	
2,845.71	1,129.04	163.34		
	16,455.95	50,031.51	66,405.56	95,297.45
172,534.23	217,988.19	224,626.12	233,545.49	224,028.64
21,791.57	6,512.49			
10,551.10	12,995.66	18,161.83	15,368.06	18,207.57
41,972.14	82,182.91	78,991.17	80,349.43	88,990.94
168,826.84	133,768.48	148,811.67	207,221.02	364,572.22
52,182.85	56,515.05	69,334.02	83,761.24	103,595.69
125,193.63	142,718.47	153,339.59	180,576.59	195,889.53
131,661.65	156,005.48	169,481.37	178,894.21	180,500.39
181,267.95	260,337.78	267,552.86	299,334.97	322,960.58
71,837.72	66,600.62	62,884.07	79,982.60	73,987.24
75,635.67	61,046.35	71,762.78	55,340.68	114,332.90
10,672.53	11,350.82	8,581.15	9,183.05	11,268.26
14,956.21	13,277.94	13,628.43	13,726.02	13,143.25
32,674.04	42,968.90	40,953.07	47,903.87	50,361.74
				2,290.71
				1,961.71
$1,208,755.20	$1,480,819.10	$1,536,895.18	$1,693,192.96	$1,982,403.82
$368,913.61	$321,258.32	$480,689.73	$596,537.43	$658,722.75

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TABLE II: NET INCOME AND EXPENDITURES OF MUNICIPALITIES, BY

(*All municipalities*

ITEM	
Cash on hand beginning of year	
INCOME	
General property tax	
Eight per cent property tax for roads	
Excise tax (municipal quota)	
Taxes levied prior to July 1, 1901	
Industrial and commercial license taxes	
Licenses, permits and certificates	
Municipal property	
Court fines	
Miscellaneous	
Total current income	
Insular loans	
Total, including insular loans	
Total, including insular loans and cash on hand at beginning of year	
EXPENDITURES	
Administrative expenditures	
Fire department	
Lighting	
Public works, construction, productive	
Public works, construction, non-productive	
Public works, maintenance, productive	
Public works, maintenance, non-productive	
Charities	
Public health	
Courts	
Penal institutions	
Traveling expenses	
Civil register	
Education, non-obligatory	
Roads, obligatory	
Roads, non-obligatory	
Miscellaneous	
Total current expenditures	
Certificates of indebtedness	
Insular loans, repayment principal	
Insular loans, interest	
Indebtedness of annexed municipalities	
Indebtedness district road board	
Indebtedness school board	
Indebtedness insular trust fund	
Indebtedness teachers' pension fund	
Total expenditures on account of indebtedness	
Total expenditures	
Balances on hand at end of year	
Unexpended portion of insular loans	
Available for ordinary expenditures	
Available for road expenditures	
Total balances	

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ITEMS, FOR FISCAL YEARS ENDING JUNE 30, 1905, TO JUNE 30, 1908 *combined*)

FISCAL YEAR ENDING JUNE 30			
1905	1906	1907	1908
$22,327.98	$51,728.04	$193,326.98	$291,751.33
$493,781.85	$617,317.43	$706,146.39	$738,764.92
		80,956.75	118,306.13
21,146.02			
3,483.29	873.02	36.39	33.66
93,400.39	115,225.93	142,110.68	162,980.44
26,837.64	24,347.27	12,971.03	13,613.58
231,507.94	334,796.36	272,038.74	269,797.19
18,109.52	26,340.85	27,724.65	25,560.70
9,730.82	10,567.12	26,141.59	33,930.87
$897,997.47	$1,129,467.98	$1,268 126.22	$1,362,987.49
95,118.33	89,343.49	111,687.92	239,775.27
$993,115.80	$1,218,811.47	$1,379,814.14	$1,602,762.76
$1,015,443.78	$1,270,539.51	$1,573,141.12	$1,894,514.09
$217,984.03	$224,626.12	$233,545.49	$224,028.64
12,995.66	18,161.83	15,368.06	18,207.57
82,182.91	78,991.17	80,349.43	88,990.94
2,529.60	10,946.23	31,360.16	134,852.50
7,983.60	40,503.98	65,577.27	106,271.06
66,206.60	69,173.81	83,736.19	103,588.19
51,893.14	76,629.28	90,786.80	113,516.53
142,718.47	153,339.59	180,476.59	195,889.53
156,005.48	169,481.37	178,894.21	180,500.39
36,042.08	28,486.97	37,700.75	36,574.27
30,558.54	34,397.10	42,281.85	37,412.97
11,350.82	8,581.15	9,183.05	11,268.26
13,277.94	13,628.43	13,726.02	13,143.25
11,473.07	14,546.94	18,989.42	23,796.17
		54,145.86	70,026.77
1,036.30	852.00	1,194.82	44,306.13
47,886.26	40,804.83	47,574.80	50,322.74
$892,124.50	$983,150.80	$1,184,890.77	$1,452,695.91
$28,964.97	$31,592.20	$20,585.17	
14,879.92	46,753.93	61,554.70	$88,838.16
1,576.03	3,277.58	4,850.86	6,459.29
1,129.04	163.34		
3,445.82	3,554.27		
14,751.15	3,552.86	3,987.37	
6,844.31	5,167.55	5,520.92	2,290.71
			1,961.71
$71,591.24	$94,061.73	$96,499.02	$99,549.87
$963,715.74	$1,077,212.53	$1,281,389.79	$1,552,245.78
$51,728.04	$193,326.98	$291,751.33	$342,268.31
	$34,288.28	$50,029.83	$26,604.69
$51,728.04	159,038.70	210,831.59	280,034.13
		30,889.91	35,629.49
$51,728.04	$193,326.98	$291,751.33	$342,268.31

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relating to gross receipts and disbursements, and the other to net income and expenditures. The distinction between these data has elsewhere been described. The first table shows all moneys passing through the treasurer's books, although the municipality may, as in the case of the special school tax, do nothing but receive and pay over to the school boards the money realized. In the second table the receipt and disbursement of the municipal proportion of the general property tax and of the special school tax, as well as all other transactions having to do with special or trust funds, are eliminated, with the result that this table shows only actual income received by the municipalities available for municipal expenditure, and actual expenditures. From this table it is thus possible to determine the income received each year; the sources from which such income was obtained; and the expenditures made, classified according to objects. In itemizing the expenditures, a distinction has been drawn between those made to meet current obligations and those made to meet interest or repayment of principal charges on account of indebtedness. This distinction is one of great importance, as it makes it possible to determine the amount actually needed, or rather actually expended, by municipalities in carrying on their regular current work.

An examination of these tables shows how great has been the progress of the municipalities in almost every respect. The gross receipts of municipalities, which for the fiscal year ending June 30, 1903, were $1,113,237.35, increased rapidly each year until they amounted, in the year ending June 30, 1908, to $2,044,589.14, or, if we omit from the statement receipts on account of insular loans, from $1,113,237.35 to $1,804,813.87, an increase in five years of $691,576.52, or over fifty per cent. For this increase, the augmented income derived from the general property tax is chiefly responsible, the increase in that item being from $378,832.25 to $1,057,344.59. This is due both to the larger proportion of the total tax levy now given to the municipalities and also to the great increase that has taken place in the assessed value of property. Almost all other items of the income side of the account, however, show a substantial advance. Particularly is this true of the two other important sources of

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income, industrial and commercial license taxes and receipts from public property, the increase in these two sources being from $104,575.90 to $162,980.44, and from $177,648.18 to $269,797.19, respectively.

If now we turn to the table giving net income and expenditures—that is, the table in which all receipts that have to be paid over to school boards, all bookkeeping transfers and the like have been eliminated, so that the showing is one purely of moneys actually available as current income—the showing is equally favorable, though here, unfortunately, the record can be given for only four instead of six years. Thus, if we confine ourselves strictly to current income, excluding balance on hand, loans *etc.*, it will be seen that, in three years from the fiscal year ending June 30, 1908, this current income has increased from $897,997.47 to $1,362,987.49, an increase of $464,990.02. On the expenditure side the most interesting fact brought out is the extent to which the municipalities have been able to increase their expenditures for works of public utility, as contrasted with those for administration proper. Thus, comparing the four years covered by the table, it will be seen that the expenditures for the construction and maintenance of public works proper, other than roads, have increased from $128,612.94 to $458,228.28, those for public health from $156,005.48 to $180,500.39, and those for charities from $142,718.47 to $195,889.53. It is in the matter of extinguishment of floating indebtedness and the accumulation of cash balance on hand, so that all obligations can be promptly met as they fall due, that the greatest progress has been made. Every municipality has completely extinguished its floating obligations and is now in a position where it can direct all of its current income to current needs or to the payment of insular loans contracted for the purpose of carrying through important public works.

If the attempt be made to recapitulate, in one paragraph, the progress that has been achieved through the legislation described above and through the exercise of the administrative control over the operations of the municipalities that is vested in the

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central government, it may be pointed out that these bodies, which at the time of the passage of the act of 1902 were, with two exceptions out of the sixty-six, heavily in debt—their indebtedness amounting in the aggregate to over half a million dollars and steadily increasing at such a rate that many, probably the majority, were practically bankrupt—are now, without exception, upon a sound financial basis: with all this old indebtedness paid off and no new indebtedness incurred in its place; with cash balances in the treasury; with budgets calling for expenditures well within available income; with expenditures devoted to works of public utility to an extent never exhibited in the past; with numerous public works of permanent importance, such as water works, slaughter houses, markets, hospitals *etc.*, many of them calling for the expenditure of ten, twenty, thirty or, in one case, sixty thousand dollars, completed or under way; with current work performed with an efficiency which persons familiar with conditions a few years ago would hardly have believed possible of attainment; and, finally, with an administration of affairs that will bear comparison as regards honesty with that of any other country. Can the municipalities of any state of the Union show an equal advance in the same space of time?

W. F. WILLOUGHBY.

WASHINGTON, D. C.

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MONETARY EXPERIENCES OF THE ARGENTINE REPUBLIC

PERHAPS no other country of the world has undergone financial vicissitudes equal in frequency and in intensity to those which have fallen to the lot of the Argentine Republic. Time and again, driven almost to the point of despair by wars and harassed by the need for funds, the Argentine has turned to the dangerous expedient of paper money; and on each occasion her experience has followed the usual cycle—overissue, depreciation and then the hardship and ruin that a depreciated legal-tender paper money always brings in its train. Today there are about 700,000,000 *pesos* of paper money in circulation, redeemable at the rate of 44 cents in gold per paper *peso*,[1] the nominal value of the *peso* being approximately one dollar. But the wonderful natural resources of the republic, the industry of her citizens and the development that has characterized her economic life promise an ultimate victory over the trials and hardships that beset her during the first century of her national career.

The independent national existence of the Argentine Republic dates from 1810.[2] During the colonial days Spanish money was naturally the common medium of exchange; but during and after the war of independence, owing to the interruption of commerce between the Argentine and "the high provinces" of Peru and to the heavy war expenditures as well as to the social disturbances caused by the war itself, the need for circulating media was increasingly felt.[3] In addition to this, the new government was hard pressed for revenue. The Spanish policy of

[1] It should be noted, however, that of this amount about 400,000,000 *pesos* were issued in exchange for gold at the 44-cent rate, and that in the case of these notes there has been no depreciation.

[2] Although the independence of the Argentine Republic was not formally proclaimed until July 9, 1816, it was on May 25, 1810, that the citizens of what is at the present time the Argentine revolted against the Spanish rule.

[3] Anuario Pillado, 1900, p. 2.

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repression, dictated by the mercantilist spirit of the age, had greatly hampered the colony's development, and the bitter struggle for freedom had drawn large numbers from productive pursuits to the field of battle. "Despite the reopening of the ports and a consequent revival of industry and trade, the revenues were quite insufficient to enable the new government to carry the burdens that were placed upon it."[1] The issue of paper money had been suggested as early as 1811, but it was not until 1817 that the "directorial" government, driven by the hard necessities of the hour, actually resorted to the expedient of paper issues.[2]

The first issue consisted of so-called "amortization notes" (*billetes de amortización*). They were used to pay the debts of the state and were in turn accepted by the government in payment of customs duties. Soon after the original issue, the notes were divided into convenient denominations of ten, twenty, thirty and more *pesos* in order to facilitate their circulation. From March 29, 1817 to October 25 of the same year there were issued 1,147,722 *pesos fuertes*[3] and seven *reales* (one *peso* equals eight *reales*). Of this amount 476,734 *pesos* had been amortized, leaving 670,988 *pesos* and seven *reales* in circulation.[4]

The finances of the directorial government, however, became increasingly desperate. Grave internal troubles of a political nature aggravated the situation to such a degree that in September, 1819, the director general signed a degree authorizing an issue of paper money at the rate of 100,000 *pesos* monthly, "to supply the needs of trade for a circulating medium and to pay the creditors of the state."[5] In May, 1820, the *junta* of the province of Buenos Aires authorized an issue of $80,000 *pesos* monthly, half in notes of one hundred *pesos* and half in notes of smaller denominations. In the following November the same body authorized the provisional government of General Balcarce to issue notes of ten and twenty *pesos*. At

[1] Anuario Pillado, p. 3. [2] *Ibid.* p. 5.

[3] Previous to the enactment of the law of 1881, instituting a national monetary system, the *peso fuerte* was the standard. Subsequently to the act of 1881 the *peso nacional*, of slightly less value, became the monetary unit.

[4] Anuario Pillado, p. 5. [5] *Ibid.* p. 5.

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this time the notes issued under the May authorization amounted to more than 500,000 *pesos*.[1]

The paper money thus issued began almost immediately to decline in value. During the first year it depreciated fully 50 per cent. In 1818 an effort was made to check depreciation by the establishment of the so-called *Caja Nacional de Sud América*; but despite the seemingly high rate of interest that it offered for deposits of paper money it had no success in stemming the tide of depreciation that had set in as a result of the repeated issues. For a short period, however, from 1821 on, the situation in the Argentine became much better. Minister Rivadavia pushed with great energy numerous reforms in taxation, finance and other fields. There was a healthy revival of industry and trade, capital was in great demand, and the rate of interest was high. Under these conditions there was felt the need for an institution which could supply an acceptable medium of exchange and which could concentrate the scattered loanable funds of the country.[2] The government therefore encouraged private individuals to establish a bank, which was to enjoy the privilege of issue. The British merchants were especially active in this project. The plan finally approved by the government provided for a banking association called the *Compañía del Banco de Buenos Aires*. The capital was to be 1,000,000 *pesos fuertes*, divided into shares of 1000 *pesos*. The bank was to be authorized to issue notes, in denominations not under twenty *pesos*, payable to bearer on demand, the amount issued being left to the discretion of the board of directors. The bank was to be governed by a board of nine directors and a general board of all the shareholders. The bank was organized before the law providing for its establishment was officially promulgated; but the plan was fully legalized by the law of June 22, 1822. The bank received a charter for twenty years and a monopoly of note issue.

Notes of the Bank of Buenos Aires were issued for the first time on September 16, 1822, to the amount of 26,400 *pesos*.

[1] *Ibid.* p. 6.

[2] *Ibid.* p. 7.

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Owing to the scarcity of money of small denominations, the bank, at the request of the government, issued notes of five *pesos*. At the end of the year 1822 the notes in circulation amounted to $212,500 *pesos*.[1]

In February, 1823, in order to supply the need for smaller bills, the finance minister issued a decree authorizing the treasury itself to issue notes of one, three and five *pesos*, redeemable on demand in standard gold, in bank notes or in copper coins. The decree placed no limit on the amount to be issued, but the government obligated itself to publish monthly the amounts issued and to deposit with the bank an adequate metallic reserve. Under this decree the government issued, from February to May inclusive, notes to the amount of 194,155 *pesos*. On June 22, 1823, however, the government authorized the bank to supersede the treasury in the issue of these notes of small denomination, thereby annulling the original provision which limited the bank's notes to denominations of twenty *pesos* or more. Furthermore, the notes issued by the government (194,155 *pesos*) were withdrawn from circulation and destroyed.[2]

The bank now had charge of two issues, *viz.*, its own issue and the issue guaranteed by the government. Both issues were convertible and circulated at par. But after the first year, fascinated by prosperity, the bank departed from the principle of measuring its note issues by the metallic reserve kept in its vaults, and by the end of the third year the notes outstanding amounted to 2,694,856 *pesos fuertes*, based on a reserve of 255,000 *pesos fuertes*—less than ten per cent.

The policy of the bank was subjected to criticism not long after its foundation. Politics also were instrumental in arousing opposition. In 1824 a plan was brought forward to establish a national bank. Under the projected scheme the new bank was to absorb the Bank of Buenos Aires, and the control of the government over the new bank was to be greater. The government looked with favor on the suggestion and appointed a commission to work out the scheme in detail. The committee's

[1] Anuario Pillado, p. 9. [2] *Ibid.* p 10.

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plan, as finally submitted to the minister of finance, provided for a national bank with a capital of 10,000,000 *pesos fuertes*, having power to coin money and to issue convertible notes, subject, however, to the approval of the government. Naturally, those interested in the Bank of Buenos Aires opposed this project. They succeeded in getting the government to defer action until 1826. During this year, as has already been indicated, the note issues of the bank continued to increase while the reserve dwindled. The influence of a continued loss of gold was aggravated by troublous times within the country, and, after great efforts to sustain the convertibility of its notes, the bank finally appealed to the government to have the notes protected by a governmental guarantee. The failure of the bank involved its overthrow; for, by decree of January 28, 1826, the *Banco Nacional* was created, absorbing the Bank of Buenos Aires.

When the National Bank opened its doors, there was outstanding a circulation of 2,694,856 *pesos*. These notes were guaranteed by the government under the law of January 8, 1826 and were theoretically convertible but practically irredeemable. The country was involved in war with Brazil, and the return to the treasury was practically limited to what Buenos Aires paid in, because the provinces did not contribute to the general expenses. This meant that the government drew more and more heavily on the bank; and because most of the bank's capital was in the form of time obligations, the only way the bank could meet the incessant demands upon it was by the issue of more notes. By the end of July the amount of notes in circulation increased to 5,418,288 *pesos*.

Hand in hand with this inflation went a rise in the premium on gold. In April gold stood at 116. At this time Congress enacted a bill prohibiting, for a period of two years, the redemption of bank notes except in bars of twenty-carat gold, weighing 53 ounces for each 1000 *pesos*, or in bars of silver, weighing 365 ounces for each 500 *pesos*. The law further provided that during the first year the bank should so redeem only one-third of its notes. The remaining two-thirds were to be redeemed during the second year. Furthermore the notes were declared legal tender throughout the republic.

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Business men, however, now demanded that contracts, in which payment in "specie" was required, be paid in metallic money and not in legal-tender notes. The bank itself thus ran the risk of being required to pay a large part of its own obligations in the same way. It made strenuous but vain efforts to buy gold. Congress, however, came to the rescue. On May 5 a law was passed postponing all redemption of notes of the National Bank until 1828. It was further provided by executive decree that legal-tender money was to be accepted in the settlement of all contracts and that contrary provisions in the contracts themselves were null and void. As a measure of self-protection the government further decreed, May 28, that henceforward it would not contract any obligation to give or pay any amount in money other than the legal-tender notes and that all dues and taxes payable to the state could also be paid in such money. All of this meant simply that inconvertible paper money was to be the sole medium of exchange.

Metallic money rapidly disappeared. By July, 1826, even the subsidiary copper coins had almost totally gone out of circulation. Small change was so scarce that the bank was compelled to put clipped coins into circulation, despite the fact that even these coins were quoted at 25 per cent premium.[1] In August the president of the republic issued a decree authorizing the bank to issue certificates of ten and twenty cents, to be retired from circulation as soon as coins of small denomination could be minted. In the meantime private persons had begun to issue notes of small denominations, but the presidential decree prohibited further private issues and allowed eight days for the retirement of those already issued. In March of the following year the bank itself was authorized to mint copper coins in twenty, ten, five and two-and-one-half-cent pieces, and with these the certificates in circulation were retired.

Internal dissensions ultimately forced the resignation of President Rivadavia. After a period of stress and storm the autonomy of the province was reëstablished, and a new president came into power. In September, 1826, the new

[1] Anuario Pillado, p. 20.

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incumbent annulled the decree of his predecessor requiring the the acceptance of legal-tender notes in the settlement of contracts. The new president understood the evil that the inconvertible paper money was inflicting upon the country, but so desperate was the situation of the government that a further issue was deemed necessary. On April 10, 1828, the *junta* of the province of Buenos Aires authorized the bank to issue 300,000 *pesos* monthly up to the sum of 2,000,000 *pesos*, which was to be loaned to the central government without interest. This issue was secured by the receipts of the custom house; and after peace was restored the government was to pay the bank 100,000 *pesos* monthly from this source until the entire issue should be redeemed. In August the same body authorized the bank to make an additional special issue of 400,000 *pesos* to cover a further loan to the central government. Moreover, a little later in the month, a law was passed by the province of Buenos Aires granting the bank an extension of time for the redemption of its notes, the period allowed by the law of May 5, 1826, having expired. To offset this extension of time it was provided that no more notes should be issued.

On September 1, 1827, notes were outstanding to the amount of 10,215,639 *pesos*. By August 18, 1828 the amount had increased to 12,615,639 *pesos*. Still, at this time the premium on gold (135 per cent) was lower than it had been six months before. But the government, pressed by innumerable demands upon the treasury and forever harassed by the want of funds, felt itself again forced on September 16 and October 1 to authorize further issues of 300,000 and 1,700,000 *pesos* respectively, which brought the total amount outstanding to 14,615,639 *pesos*. As these issues were taken as a loan by the central government itself, on November 3 the *junta* of the province of Buenos Aires declared the notes outstanding to be guaranteed by the province.

In December a section of the army rebelled; a new executive came into power; and he promptly suspended the decree of September, 1827, and declared in full force the law of May 7, 1826, which had made the bank notes full legal tender in the settlement of all contracts. The bank's issues were now in excess

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of those authorized. In June, 1829, the notes in circulation amounted to 15,289,046 *pesos*. The government's debt to the bank was 18,006,462 *pesos*. Gold was quoted at a premium of 388 per cent.

In September the directors of the bank proposed a plan to facilitate the extinction of the government's debt and thus to improve the situation of the bank. The proposed plan was accepted by the government and put in force by the acts of October 2 and 3.

The first act provided for an increase of customs duties, for the purpose of retiring the notes from circulation. The second established an "amortization bureau" for the bank notes. Income for this bureau was to be obtained, not only from the customs duties, but also from a tax on salting establishments, from the license taxes, half of which were set aside for this purpose, from the dues of criers and from the stamped paper[1] receipts, half of which also were to be used for this purpose. The bureau was to be managed temporarily by a board composed of the vice-president of the Senate, the minister of finance, two directors of the bank and three citizens of recognized integrity of character, who were to be nominated by the government. The bureau was to receive and publicly destroy bank notes.

On October 6 part of the income from discounts of the bank and the dividends on the stock owned by the government were added to the resources of the bureau.

The amortization bureau existed until January 30, 1833, on which date it was suspended by law. From the sources specified 4,513,475 *pesos* had been collected, but not a single note had been retired from circulation. The money had, by decrees of February 21 and December 12, 1831, been set aside to meet extraordinary expenses of war.

On May 30, 1836, a decree of the dictator Juan Manuel Rosas declared the National Bank dissolved. To a board of six members was assigned the task of administering the paper issues, which thus became direct obligations of the province of

[1] Stamped paper (*papel sellado*) is still issued by the government, and certain kinds of documents *etc.*, to be legal, must be drawn up on this paper.

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Buenos Aires. This new board was called the *Casa de Moneda*. The circulation outstanding was 15,283,540 *pesos*, and gold had risen to such an extent that a paper *peso* was quoted at fourteen cents.

The decree of Rosas did not actually destroy the National Bank. It was forced to give up all of its control over note issues, but in the handling of its other banking business it exercised considerable freedom. The *Casa de Moneda*, on the other hand, although authorized to conduct commercial operations to a very slight extent—a privilege which was afterwards withdrawn by decree of March 2, 1838—became really an institution which, until its organization was modified in 1853, executed mechanically the governmental decrees. Practically its only function was to issue periodically inconvertible paper money to cover the deficits of the treasury and to meet the expenses of war. During Rosas' dictatorship the history of the paper money reduces itself to a chronological enumeration of the divers issues put into circulation. The laws authorizing these issues said nothing about guarantees, redemption or ultimate amortization.

In April, 1837, the circulation outstanding amounted to 19,483,540 *pesos*, and a paper *peso* was equivalent to twelve and one-half cents in gold. By successive later authorizations circulation increased to 36,058,540 *pesos*, and the paper *peso* depreciated further to seven cents in gold. Moreover, on April 16, 1839, the *junta* prohibited the sale of gold or silver for legal-tender currency without special permission in writing from the minister of finance. It was thought that in this way the increase of the premium on gold and silver could be checked. By 1840 the issue had increased to 51,664,394 *pesos*, and the paper *peso* was quoted at three and one-third cents in gold.

For some years the situation, so far as the paper money was concerned, remained about the same. In January, 1846, however, owing to international complications, the ports of the river Plata were blockaded by England and France. This cut off the revenues to a most disastrous extent and furnished the excuse if not the justification for new issues of paper money. The blockade lasted for two years and a half (until July, 1848), and during

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this period notes to the face value of 75,056,666 *pesos* were added to the circulation. Despite this inflation the paper *peso* was quoted at five cents in gold. Further issues were subsequently authorized, until the total amount outstanding at the the end of Rosas' dictatorship in 1852 was 137,021,060 *pesos*. The paper *peso* was then worth six cents in gold.

After Rosas was deposed political disturbance continued. Repeated resort to the issue of paper money was of course deemed necessary. These various issues increased the amount in circulation by 59,726,596 *pesos*, bringing the total up to 210,247,656 *pesos* at the beginning of 1854. The paper *peso* was quoted at five and one-third cents in gold. In December, 1853, a law was passed reorganizing the *Casa de Moneda*, converting it into a banking institution and permitting it to receive deposits and to make discounts. It was known thereafter as the *Banco de la Provincia de Buenos Aires*. Further note issues were not to be permitted.

On January 8, 1855, peace was concluded between the province of Buenos Aires and the Confederation, but this peace was again disturbed four years later. The Confederation had adopted a system of differential duties to which the province of Buenos Aires took serious exception. Buenos Aires attempted to retaliate by means of restrictions on trade. The provincial legislature authorized Governor Alsina to repel by force of arms any attempt made by the federal Congress to coerce the province of Buenos Aires. The federal Congress, in turn, authorized the president to reduce the recalcitrant province to submission.

In order to meet the needs of this situation, Buenos Aires had recourse as usual to the simple expedient of printing more money. In July, 1859, the legislature authorized an issue of 30,000,000 *pesos* for extraordinary expenses of war. A sum made up of ten per cent of the import and export duties collected each month was set aside for the liquidation of this issue. As the money was turned in, notes were to be withdrawn from circulation and destroyed. In October, however, a new issue of 30,000,000 *pesos* was authorized, and in November, fourteen days before the signing of the agreement of unification

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in San José de Flores, an additional issue of 25,000,000 *pesos* was provided for. Ten million of the last issue were not really put into circulation until 1860. The notes outstanding on December 3, 1859, amounted to 283,037,656 *pesos*, and, the value of the paper *peso* in gold was precisely five cents.

Civil war broke out again in July, 1861. Two days before the beginning of hostilities a new issue of 50,000,000 *pesos* was authorized by the legislature. To liquidate this issue an increase of two and one-third per cent was made in the customs duties. But the war this time was of short duration. The battle of Pavon ended it and assured the definite reorganization of the republic. The political unification of the Argentine was finally accomplished in 1862, but the new republic started out with a heavy burden of depreciated paper currency, amounting to 358,687,656 *pesos*.

Domestic peace, however, promised better things. A new era began. Plans for putting the country's currency on a sounder basis were brought to the attention of Congress in 1862. One plan, suggested by the minister of finance, resembled closely the national banking system adopted about the same time in the United States. But nothing was done for a year. The premium on gold declined little by little as trade and confidence revived. In 1863 a plan was suggested which provided for the redemption of the paper money at the ratio of one to twenty-five. At that time the notes outstanding were of the face value of 342,607,656 *pesos*, but it was estimated that some thirteen millions of the notes had been lost or destroyed. On the assumption that 330 millions would ultimately have to be redeemed it was calculated that, at the ratio of one to twenty-five, a sum equal to 13,200,000 *pesos* in gold would have to be accumulated. Means for raising this sum were suggested, but, despite the fact that everybody recognized the necessity of providing for redemption, details could not be agreed upon, and the whole scheme fell through.

The following year Congress took the matter up again. A new plan, involving, however, the same ratio of redemption, was presented. The resources to be used were as follows: (1) the capital of the Bank of the Province of Buenos Aires (the reor-

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ganized *Casa de Moneda*); (2) customs duties already set aside for note redemption; (3) the sale of the Western Railroad; (4) the sale of the public lands; (5) credits that the bank might have; and (6) a loan of 4,000,000 *pesos* in gold. This plan was criticised and opposed, especially the provision relating to the loan, but despite the opposition it was put into effect by law of November 3, 1864. It was provided that redemption should begin July 1, 1865, when the Bank of the Province of Buenos Aires was itself to issue notes payable in gold on demand, but not in denominations smaller than twenty *pesos* nor to an amount greater than thirteen millions. Furthermore the bank was to maintain a reserve equal to at least one-third of its note issue. In other words, the new issue, based upon a one-third gold reserve, was to take the place of the old issues at the ratio of one to twenty-five.

When the date arrived at which this scheme was to become operative, July 1, 1865, it became evident that its principal feature, the redemption of the old notes, could not be carried out. Returns from the sale of lands fell off, and the loan was not negotiated because the bankers would not grant what were considered satisfactory terms. Yet the law gave a certain stability to the value of the notes and really paved the way for a radical reform, which was made later.

In the meantime, however, the country was involved in a conflict with Paraguay. On November 8, 1866, the bank loaned to the government 4,000,000 *pesos*. This sum was to be repaid in monthly instalments of 300,000 *pesos* in gold. As a security for the loan, the government turned over 4,000,000 *pesos* in bonds. The bank itself was authorized to issue notes to the same amount, in denominations not less than twenty *pesos*, redeemable in gold on demand. In addition to the gold value of the note, there was also to be indicated on its face its equivalent in legal-tender money at the ratio of one to twenty-five. This issue was ultimately increased to 12,000,000 *pesos*.

In December, 1866, the committee on finance of the House of Representatives of the province of Buenos Aires presented a scheme for the establishment of a bureau of exchange (*Oficina de Cambio*). The Bank of the Province of Buenos Aires was to

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be authorized to deliver twenty-five *pesos* in legal-tender notes in exchange for one *peso* in gold to anyone asking for it, and the gold thus received should be exchangeable for notes at the same ratio. Should the paper depreciate, the bank would, nevertheless, continue to pay out gold up to the amount of its metallic reserve. This scheme was crystallized into law early in 1867. As the government had expected, when the Bureau of Exchange was opened an abundance of gold was offered in exchange for notes. During the first year of its existence it succeeded in accumulating gold to the amount of 3,480,881.30 *pesos*. By 1873 it had in its vaults a gold reserve of 16,862,440 *pesos*, which secured legal-tender notes to the amount of 420,000,000 *pesos*, redeemable at the ratio of one to twenty-five. Side by side with these notes, the previous issues of legal-tender notes, amounting to 298,457,656 *pesos*, and the metallic notes, amounting to 12,000,000 *pesos*, circulated without appreciable fluctuations. After 1873, however, the stock of gold held by the bureau dwindled rapidly, and in 1876 its doors were closed.

In the meantime, in September, 1872, Congress allowed twenty-five capitalists to form a stock company for the establishment of a national bank. The capital was to be 20,000,000 *pesos*, divided into shares of one hundred *pesos*, of which the government was to subscribe 2,000,000 *pesos*, to be paid from public funds. The bank was allowed to deal in bills, to open deposit accounts and to make loans to the government. It was allowed to issue notes up to twice the amount of its paid-in capital, keeping a reserve of twenty-five per cent. These notes were to be redeemable on demand and were to be accepted at all public offices. The bank was to be preferred for governmental deposits and was to act as an agent of the government in fiscal matters. The management of the bank was to be entrusted to twelve directors, of whom three were to be appointed by the government and nine by the stockholders. This bank began operations on November, 1873, when the first signs of the coming crisis were apparent. The Bank of the Province of Buenos Aires, in order to strengthen its position diminished the volume of its operation; but the new National Bank issued notes and made loans liberally. By the end of

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June 1874 it had issued notes amounting to 4,500,000 *pesos* and had discounted about 2,000,000 *pesos* at nine and one-half per cent.

In 1874 a revolution precipitated the crisis. The National Bank was severely shaken, being compelled to protest obligations dishonored to the amount of six millions. At the same time the government demanded 3,500,000 *pesos* of the bank's deposits for the immediate exigencies of the civil war and the remaining deposits in the ensuing months. The bank, although thus considerably weakened, resisted till 1876, when a run was started on it both by depositors and note-holders, who demanded simultaneously their deposits and the redemption of notes. The government was unable to pay any part of its debt to the bank, and the stockholders were unwilling to pay their instalments. The National Bank accordingly closed its doors, and the government was forced to decree in May, 1876, the inconvertibility of the bank's outstanding notes. By a further decree of July, 1876, these notes, amounting to 2,394,114 *pesos*, were made legal tender.

In the meantime the position of the Bank of the Province of Buenos Aires also had been so weakened by the crisis that it became necessary for the government of the province of Buenos Aires to authorize the bank to suspend the redemption of its notes in specie. This was done in May, 1876, and the notes were declared full legal tender, the state government guaranteeing that the notes of the bank would be redeemed in due course. The Bureau of Exchange, as has been already noted, succumbed in the same crisis.

The National Bank, the financial agent of the federal government, having disappeared, this government, still pressed for funds, appealed for help to the Bank of the Province of Buenos Aires. The proposal that the bank be authorized to make a loan to the federal government encountered much opposition in the state legislature; but finally, in September, 1876, an agreement was arrived at, whereby the Bank of the Province of Buenos Aires was to lend the government 10,000,000 *pesos*, and the bank was authorized to issue for the government 10,000,000 *pesos* in notes, to be full legal tender. The govern-

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ment agreed to pay this loan, as well as the previous loans that the bank had made to the government, in monthly instalments, amounting to one-twelfth of the revenue from customs. So long as the government remained indebted to the Bank of the Province of Buenos Aires, no other bank in Buenos Aires was to be authorized to issue notes. It was furthermore agreed that the notes of the late National Bank should not be received in payment of public dues by the province of Buenos Aires.

After the crisis of 1876 there was a healthy reaction throughout the business world. New arrangements were made for paying the national debt; new banks were established; and, with one exception, the outlook was promising. The anarchic condition of the exchange media constituted the exception. A law of 1875 made the silver *peso* the standard monetary unit, but the money in actual circulation was the irredeemable legal-tender paper *peso*. Nominally, at the ratio of one to twenty-five, this was worth four cents; actually it was worthless; but with the revival of business it came to be worth "par," meaning four cents in gold. Out in the provinces conditions were, if possible, even worse than in Buenos Aires. Besides paper issues of their own, there were in general circulation in the provinces the silver coins of Chile and Bolivia. It was realized that some improvement in the monetary system was imperative.

In 1878 the executive made recommendations to Congress with this end in view. Nothing was done, however, until 1881. In this year a law was passed reorganizing the monetary system. Its main provisions were as follows:

(1) The monetary unit of the Argentine Republic was to be the gold or silver *peso*, containing respectively 24.89 grains of gold or 385.8 grains of silver. (This meant a legal ratio of 1 to 15.55.)

(2) The denominations of the coins to be minted, their weight *etc.* were specified.

(3) The legal-tender qualities of the subsidiary coins were limited.

(4) Foreign gold coins were not to be legal tender after 8,000,000 *pesos* in gold coin should have been minted by the Argentine; and after such time the circulation of foreign coins was to be forbidden.

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(5) Similarly, silver coins were no longer to circulate after the Argentine should have minted 4,000,000 *pesos* in silver coins. In the case of both gold and silver coins, announcement was to be made, by executive decree, when the amounts specified had been coined.

(6) Foreign coins were to be accepted at the mint at their bullion value under the ratio established by law.

(7) Banks of issue existing in the republic were, within two years from the passage of the law, to renew their issues in accordance with the new monetary unit. New issues of denominations under one *peso* were prohibited, and outstanding notes of this kind were to be withdrawn from circulation within a period of two years.

This act, notwithstanding that it provided for a nominal bimetallic system, introduced a measure of uniformity in the circulating media and had a wholesome effect. But Congress went further. In 1883 it was provided that no bank notes should be issued except such as were payable in Argentine gold *pesos* and redeemable on demand, and the executive was authorized to fix a reasonable period within which notes not so payable or redeemable should be retired. To see that the provisions of the law were faithfully carried out a new office, that of the superintendent of banks, was created.

For a short period the monetary system was relatively stable. All the old legal-tender notes were replaced by so-called metallic notes, *i. e.*, gold notes, at the rate of 25 legal-tender paper *pesos* for one *peso* in metallic notes; and as a result of favorable business conditions these new notes were redeemed in gold on demand and circulated at par. The convertibility of these new metallic notes lasted, however, but a short time. Heavy expenditures for public works by the government and an unwise expansion of credit generally brought on a serious financial disturbance in the latter part of 1884. In January, 1885, the circulating paper money (*i. e.*, the metallic notes) was again legally declared to be inconvertible for a period of two years. This action was in the first instance taken by the executive, but it was subsequently confirmed by Congress. Under the law all obligations to pay in gold incurred prior to the date of the decrees could be dis-

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charged by paying legal-tender notes. At the expiration of the two-year period, however, when the notes were to become again convertible, Congress authorized the executive again to postpone the time when redemption was to begin. Indeed, in December, 1886, the government had authorized the Bank of the Province of Buenos Aires to increase its issue of now inconvertible notes by 7,000,000 *pesos*, and the conversion of the notes was postponed for another period of two years. Depreciation again set in. Although it varied from month to month, the net result was a steady fall in the value of the paper money. In December, 1889, gold was at a premium of 130 per cent.

In the meantime an experiment with a new banking project, similar to the national banking system of the United States, had begun. In 1887, at the suggestion of the executive, Congress passed a free banking law. The principal provisions of this law were as follows:

(1) Any banking organization was to be authorized to issue notes, when covered by an equal amount of national gold bonds bearing five and one-half per cent interest, which were to be specially issued for the purpose.

(2) The paid-up capital of each such bank must be at least 250,000 *pesos*, and the note issue was to be limited to 90 per cent of the total capital.

(3) The bonds were to be paid for in gold at not less than 85 per cent.

(4) In case of the failure of a bank, the bonds were to be sold to meet its outstanding notes, and any deficiency was to be paid by the government.

(5) The government was to deposit in the banks the gold so received for a period of two years, after which the gold was to be used in paying a part of the foreign debt.

(6) The name of the issuing bank was to be printed on the notes.

(7) The National Bank was exempted from the bond-deposit provision, because the government guaranteed its notes.

Under this law nineteen new banks were incorporated and 161,766,590 *pesos* in notes were added to the circulation. Besides these issues the government itself, through the National

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Bank and the Bank of the Province, added 35,116,000 *pesos*. As the law was an out-and-out inflation measure, the result might have been foreseen. In 1890 came a depression in business and a revulsion in confidence, the seriousness of which was aggravated by a revolution in July. The official banks and almost all the guaranteed banks failed. What this meant to the people at large needs no elaborate statement. To the government it meant that the whole issue of 196 millions had to be assumed as a state obligation. Gold was at a premium of 225 per cent. More than this, the government had to come to the aid of the National Bank, and the only way of doing this that suggested itself was through another issue of 600,000 *pesos*. Later other issues were authorized, and a special *Caja de Conversión* was created for the purpose of handling them.

In October, 1891, the National Bank was closed by the government, and a new institution, the *Banco de la Nación Argentina*, was established in its stead. It was to have a capital of 50,000,000 *pesos*, divided into 500,000 shares, which were to be offered for subscription. The new bank was to enjoy all the privileges that had been conferred upon the old National Bank, but its note issue was limited to twice the amount of its paid-up capital and it was required to keep a 25 per cent metallic reserve. The *Caja de Conversión* was to advance to the bank an amount equal to the par value of its capital stock (50,000,000 *pesos*), for which a corresponding amount of notes was to be issued. The issue was to be redeemed, however, with the proceeds of the sale of the stock, and the notes so redeemed were to be destroyed. "This amazing scheme of basing a new bank, with such a large capital, on an issue of paper money did not seem at all incongruous to the projectors, in spite of the fact that only a few months before the government itself could not float a loan of 30,000,000 *pesos* at six per cent interest."[1] It is not to be wondered at that the shares of the new bank found no purchasers. Nevertheless the *Caja de Conversión* continued to issue the 50,000,000 *pesos* which were to constitute

[1] Anuario Pillado, p. 67.

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the bank's capital. Moreover another law was passed, authorizing the *Caja de Conversión* to deliver to the *Banco Hipotecario Nacional* (a national mortgage bank that had been established) 5,000,000 *pesos* in bank notes, which were to constitute its reserve fund. The bank, however, used the notes to meet its obligations. At this time the notes outstanding amounted to about 295 millions. "Financially the Argentine Republic was, at the end of 1891, pretty much as was France in 1797; with this difference, however, that the Argentine Republic had a great many more future or contingent resources in her extensive and uninhabited territory and in her excellent fertile lands." [1]

This inflation naturally sent the premium on gold soaring. During the third week of October, 1891, a paper *peso* was worth only 21 cents in gold.[2] The depreciated paper with its fluctuations hopelessly demoralized business and stimulated speculation. Between 1891 and 1899, notes for 5,000,000 *pesos* were issued in addition to those already outstanding, raising the total to about 300,000,000 *pesos*. For several years this unfortunate condition continued. Finally, in 1899, the minister of finance brought forward a plan:

(1) To fix a ratio according to which the future redemption of the paper money should be made.

(2) To accumulate a metallic reserve sufficient to permit such redemption.

(3) To maintain the ratio so fixed by adding to the *Caja de Conversión* a bureau to act as an automatic regulator of the currency, increasing or decreasing the amount outstanding according to the amount of gold deposited.

Upon this plan was based the solution of the paper-money problem in the Argentine—so far as that solution has been worked out. A bill embodying the recommendations of the finance minister was passed by Congress. The government was to redeem all paper money at 44 cents in gold per paper *peso*. The accumulation of a redemption fund (*fondo de con-*

[1] P. Leroy-Beaulieu, Traité de la science des finances (Paris, 1906), vol. ii, p. 757.

[2] Martinez and Lewandoski, L' Argentine au xx^e^ siècle (Paris, 1906), p. 361.

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versiôn) was provided for, and a redemption bureau was established in connection with the *Caja de Conversiôn*, which was to exchange gold for paper and paper for gold, at the rate mentioned, to any one presenting either gold or paper. A subsequent act has set the limit of the redemption fund at 30,000,000 *pesos* in gold. The accumulation of the fund has been steady, and by the end of 1909 it amounted to about 28,000,000 *pesos* in gold—only 2,000,000 short of the limit set.

Ever since the passage of this law paper money has been stable in the Argentine—albeit on a depreciated basis. At present the total amount of notes in circulation equals about 690 millions, to which must be added about 10,000,000 *pesos* in nickel and copper coins. About 400 millions of this represent issues by the new bureau in exchange for gold deposited with it. The remainder constitutes the original 300,000,000 *pesos*, that is, the amount issued previous to the establishment of the redemption bureau, and it is this amount that is secured by the redemption fund. Doubtless by the end of 1910 the 30,000,000 limit of the redemption fund will have been reached. When this occurs, it is planned to exchange the paper money now in circulation, at the rate mentioned, for paper money to circulate at par with gold. The flourishing condition of the republic's trade gives much encouragement to those who have this plan in view, and its consummation is devoutly to be hoped for.

I. GRINFELD.

COLUMBIA UNIVERSITY.

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THE BRITISH BUDGET AND SOCIAL REFORM[1]

TO attempt to describe a British budget in its entirety and to explain all its provisions would occupy a vast amount of time, doubtless far more than you would be disposed to give to the matter. Consequently I propose to state briefly the budget proposals and to deal rather more exhaustively with the underlying conditions in England that have produced the existing budget—the budget which has created so much controversy and which is so enthusiastically supported on the one hand and so strongly opposed on the other.

The existing budget has been propounded in consequence mainly—indeed, I might say entirely—of the necessities of the situation. Every one in England, whether Liberal or Conservative, recognizes the need of efficiency. For a long time past England has been exposed to an increased measure of competition from progressive neighboring countries as well as from the United States, and everyone realizes that the country must do all the things that are essential to its future progress. Difference of opinion arises only as regards the measures that ought to be taken under the new conditions that have arisen. The Conservatives have put forth a scheme of tariff reform which, they maintain, will increase the trade of the country, give greater employment to our working classes and raise the rate of wages—in fact, enhance the efficiency of the nation. On the other hand, the Liberals maintain that tariff reform is merely another name for protection, that the great trade now enjoyed by England and the high measure of prosperity to which it has attained have been built up by free trade, that protection instead of increasing the efficiency of the nation will render it less efficient, and that what is needed is social reform, by means of which the welfare and the efficiency of the working classes will be increased. Further, the Liberals point out that protection, which includes the taxation of food, would be especially

[1] Address delivered before the Academy of Political Science, at Columbia University, October 31, 1909.

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oppressive to the working classes and would not increase their efficiency, and that the system of taxation which for the past sixty years has stood the test of time and of difficulty cannot well be improved upon. That system is the taxation of luxuries.

For those of you who are not familiar with taxation in England I would state that in the last fiscal year, to March 31, 1909, the amount of revenue collected was about £151,578,000, of which £26,037,000 came from the post office, crown lands, Suez Canal shares *etc.*, and the remainder, £125,578,000, was raised by taxation. Of this latter amount, £21,417,000 was raised by a duty upon spirits, £12,691,000 by a duty upon beer, £13,823,000 by a duty upon tobacco and snuff, £1,120,000 by a duty upon wine and £3,113,000 by licensed duties, mainly upon licensed premises for the sale of alcoholic beverages. These items of luxury thus yielded a revenue of about £52,164,000 or 41 per cent of the total taxation. Of the balance, £33,930,000 or 27 per cent of the total was raised by a tax upon incomes, and £18,370,000 or nearly 15 per cent of the whole was obtained from death duties or, as you would term them, inheritance taxes. Nearly £8,000,000 or six per cent of the total was raised from stamps. These stamp duties include cheque duties, stamps on deeds, bonds and contract notes, taxes on patent medicines, cards *etc.* and on numerous other things upon which stamps have to be placed in order to make them legal. Of the remainder, £2,630,000 is raised by a tax upon land (£730,000) and a duty upon inhabited houses (£1,900,000). Duties aggregating about £10,000,000 are placed upon semi-necessaries, *viz.*, tea, sugar, coffee, cocoa, currants, raisins and figs.

You will see, therefore, that apart from one or two items which may be regarded as semi-luxuries, necessaries are entirely untaxed. There is no taxation of wheat, maize, cattle, beef, butter or any other article of food except those I have enumerated, and all raw materials and manufactured articles are admitted free.

When you consider that in a year of crisis—a year in which the revenues of the United States greatly contracted and those of other countries also declined heavily—the United Kingdom

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was able to raise a revenue of £151,000,000, showing (after allowance is made for taxation remitted) a small increase over the revenue of the preceding year, you will appreciate that the nation is in a very strong and flourishing condition. Under our existing system of taxation we can rely upon an expansion of about two per cent in our revenue in years of normal trade activity and no contraction in periods of trade depression.

The objects upon which this vast revenue is expended are as follows. Upon our army we expended last year £26,840,000, and upon our navy, £32,188,000—a total sum for defence of £59,028,000; upon civil services, £32,338,000; upon the customs and inland revenue services, £3,320,000; upon the post-office services, £18,113,000; in relief of local taxation, £9,824,000; for miscellaneous consolidated-fund services, £1,669,000, and upon the national debt, £28,000,000. Of this last mentioned sum, nearly £10,000,000 was applied to debt redemption and only £18,000,000 was expended for interest and management. It is our practice in normal times to make provision for the redemption of our great debt, which amounts to £754,000,000 and has been incurred for the most part for defensive purposes. Beyond the £10,000,000 of sinking fund charged upon the consolidated fund, an additional £2,000,000 was charged upon the army and navy votes in order to redeem the debt created on account of barracks, naval harbors *etc.*, so that the total sum applied out of last year's revenue to debt redemption was about £12,000,000. The present government has succeeded in redeeming a larger amount of debt than any other government that we have had. In the short space of four years about £47,000,000 of debt has been redeemed.

From the point of view of the ability of a nation to raise additional revenue if necessary, no country is stronger than the United Kingdom. Without any taxation of actual necessaries the country is paying off about £10,000,000 of debt each year. In a great emergency it might become essential to tax necessaries, in which case we should be able to raise a very large additional revenue without difficulty. Of course, in a period of war everyone, rich or poor, will gladly contribute to the national funds and will willingly submit to the taxation of necessaries as well as of luxuries.

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Before I pass on to the special features of the present budget, I would direct your attention for a moment to the division of the revenue between what we term "direct" and "indirect" taxation. By indirect taxation is meant those taxes that are paid unconsciously, as, for instance, the duties upon spirits, beer, wine, tobacco, tea, sugar *etc.* These duties are covered by the terms "customs" and "excise." Customs revenue is the revenue collected from duties charged on goods imported, and excise revenue—which you would term internal revenue—is collected from the same commodities produced at home. In the last fiscal year the customs revenue was £29,200,000, and the excise revenue was £33,650,000—a total of £62,850,000. By direct taxes is meant those duties which are directly and consciously, though not always conscientiously, paid by the taxpayers. The estate or death duties yielded £18,370,000; the land tax and house duty, £2,630,000; and the property and income tax, £33,930,000—a total of £54,930,000. Of the stamp duties, yielding £7,770,000, about one-half should be assigned to indirect taxes and the other half to direct taxes. The tax upon patent medicines, for instance, is obviously an indirect tax; the taxes on receipts, cheques *etc.* and other penny-stamp duties are also of this nature; and the tax on playing cards comes under the same category. On the other hand, companies' loan and capital duty is obviously a tax upon capital and is paid by those to whom the capital belongs. The tax upon foreign certificates and share warrants is also a tax upon capital. Applying one-half of the income from stamp duties to indirect taxation and the balance to direct taxation, indirect taxation amounts to £66,700,000 and direct taxation to about £58,800,000.

The indirect taxation of the country is, of course, paid by the great mass of the people, whereas the estate duties and income taxes are paid by those possessing property or enjoying an income of over £160 a year. The income of those who pay income taxes amounted last year to about £850,000,000, and the income of those who do not pay income taxes was about £900,000,000. After making allowance for the fact that a portion of the indirect taxation of the country is paid by those who possess accumulated wealth and who are rich enough to

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pay income taxes, the proportion of income appropriated to taxation is about the same in the case of the poor as in the case of the income-tax-paying classes.

I would ask you to note here that the number of persons who pay income taxes is officially calculated to be about 1,250,000, which, assuming an average of five persons to the family of each person paying the income tax, means that the income-tax-paying class includes only 6,250,000 persons out of a population of about 45,000,000. Thus nearly one-half of the nation's income is received by less than 14 per cent of the population, and only slightly more than one-half of the nation's income is received by the remaining 86 per cent of the population.

Further, I would ask you to note that the wealth of Great Britain is estimated by Sir Robert Giffen, and also by myself, to amount to over £16,000,000,000—and I calculate that it increases at the rate of 100 per cent every 33 years—and that this great wealth is owned almost entirely by 14 per cent of the population. This is the condition at the present time from the mere arithmetical point of view. A few persons are accumulating wealth at a very rapid rate, and the wages of the masses are so low that they are able to make only the smallest provision against misfortune and old age.

It may assist you in the understanding of the problems which we in the United Kingdom have to solve, if I give you some indication of the manner in which the wealth of the country is distributed, as shown by the rental values of the houses in which our people dwell. In the latest year for which information is available, 1907–08, the number of dwelling houses was a little more than 8,000,000. In the following table these are classified according to rental values.

HOUSES IN THE UNITED KINGDOM

Number	*Percentage*	*Rental value*
3,162,752	39.4	under £10
1,985,639	24.8	£10 and under £15
964,345	12	£15 and under £20
1,318,645	16.4	£20 and under £40
593,237	7.4	£40 and over
8,024,618	100.	

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This table shows that out of a total of 8,024,618 dwellings 76.2 per cent were of a rental value of less than £20 a year; 16.4 per cent were of a rental value of between £20 and £40; and only 7.4 per cent were worth more than £40 a year. The rentals paid closely reflect the incomes of those who live in the houses.

From these and other data it is well known that the greater portion of our wealth is possessed by comparatively few persons, and that the bulk of the people of the country experience great difficulty in saving even moderate sums by way of provision against misfortune arising from trade depression, ill health, premature death or old age.

This situation is recognized by both parties in the state. Conservatives and Liberals alike are united in admitting the necessity of making better provision for our wage earners in periods of misfortune; and I would ask you to note that early in 1908 the Conservative members in the House of Commons moved an amendment to the address, regretting that no mention of old-age pensions had been made in the king's speech. In defeating the amendment the Liberal government for the first time indicated its intention of dealing with the matter in the ensuing budget.

Thus you will recognize that we all—Liberals and Conservatives alike—admit the necessity of making better provision than hitherto for our aged poor. At the present time the nation is spending a vast sum upon the relief of the poor. In 1908 the sum expended for this purpose was £17,717,132. Last year the number of paupers in the United Kingdom in receipt of relief, indoor and outdoor, was about 1,135,000, representing a proportion of about 250 per 10,000, or nearly two and one-half per cent of the whole population. The greater portion of these poor persons are old people unable to work. The adult able-bodied constitute only a small percentage. In England, out of 248,000 indoor paupers 50,000 are able-bodied, and out of 546,000 outdoor paupers 71,000 are able-bodied. As you are aware, the operation of our poor laws has recently been subjected to a long and exhaustive investigation by a royal commission, whose inquiries have resulted in one of the most

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voluminous reports, if not the most voluminous report, ever issued by such a commission. The effect of the investigation is likely to be a total change in our methods of affording relief to the poor of our land. There is in fact no doubt that, although old-age pensions were introduced before the Poor Law Commission had made its report, the government was acquainted with the evidence furnished to that commission and also with the probable tenor of its report, and that the introduction of old-age pensions was the direct result of the deplorable condition of things revealed by that investigation. I would specially ask you to note that at the present time the country is bearing an expenditure of about £17,000,000 for poor law relief—a sum largely expended in assisting the aged poor. The old-age pensions that have been introduced provide for the payment to persons of over 70 years of age of a maximum sum of five shillings a week, the rate of pension declining as income increases in order that the maximum income and pension shall not exceed 13 shillings per week. This pension is granted, apparently, without any contribution whatever from those who receive it. I advisedly say "apparently," because you will appreciate that no one can live upon five shillings a week, and that, if any person is to enjoy the pension and remain out of the workhouse, he must by his own efforts or by the contributions of his children supplement the pension by such a sum that he can maintain himself. Therefore, although those receiving the pension do not contribute to the government's pension fund, contribution to their support is made by them or by others in order to render the government's pension adequate for their maintenance. A great deal has been said about the ill effect of granting old-age pensions on a non-contributory basis; but the persons having experience in this matter realized that a contributory scheme was practically impossible, and that, by keeping down the rate of pensions, a stimulus would be given to the masses to provide the balance of the income required to maintain themselves in their old age. Thus, although from one point of view the scheme is non-contributory, from a practical point of view it is contributory.

In comparison with the existing system of poor law relief a

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pension system has one especial advantage. As matters stand at present, a person cannot obtain poor-law relief until he is practically penniless. This usually involves the breaking-up of the homes of the old people and their incarceration in great barracks, in which they do nothing. By means of the old age pensions, which will supplement their own earnings and their savings, they will be able to maintain themselves in their homes and will therefore contribute to a very considerable extent to the wealth of the country. By continuing to do the work which they are capable of doing, instead of sitting in profitless idleness, they will create additional wealth; and I anticipate that the wealth created by these old people maintained in their own homes will be much in excess of the sum needed to provide them with pensions. Further, I would ask you to note that not only do they do no profitable work at present in what are euphemistically termed "workhouses," but they are costing the nation much more than five shillings per week per head for maintenance. Calculations have been made on behalf of the government which show that in the course of time the saving in poor-law expenditure will be nearly equal to the sum granted out of the imperial exchequer for old-age pensions. If this calculation be verified by experience, and I think it will be verified, then the granting of old-age pensions will leave us with a large amount of wealth to the good in consequence of the work done by these old people in their own homes. In fact, as far as I am able to gauge the matter, the granting of the pensions will tend to stimulate thrift and self-respect and will not have the effect of undermining the independence of our people.

At the time that this condition of affairs became so strongly appreciated through the evidence given before the Poor Law Commission, another commission, or rather a select committee, was appointed to inquire into the income tax. The evidence placed before this committee was of striking character. It showed that the number of persons paying income tax was only 1,250,000, and that the income of a few thousand persons amounted to several hundreds of millions sterling. Thus we had brought into juxtaposition the exceeding poverty of great numbers of the people of our country and, on the other hand,

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the enormous wealth of a small number. Consequently it became apparent to everyone who followed the course of public affairs that the existing situation was dangerous both to the state and to the weathy classes themselves, and that something must be done in order to diminish the worst evils from which the masses of our countrymen suffer.

Unfortunately at this time other nations developed a policy of actively expanding their naval armaments; and the policy which we held to be essential to our welfare, that of maintaining a fleet equal to the combined fleets of the two next strongest powers, compelled us to increase our expenditures upon the navy and to make preparations for spending still greater sums in the future. This policy has involved an increase of £3,000,000 in our naval expenditure of the current year, and it will increase by another sum of about £7,000,000 our naval expenditure of next year.

Thus the situation which the chancellor of the exchequer had to face was to provide the money required for old-age pensions and for the increase of our navy, a sum in all of nearly £20,000,000.

Before going further I ought perhaps to state that the granting of old-age pensions is only a portion of the scheme of social reform. The government's plan is to endeavor to diminish the worst evils from which our masses suffer and to prevent that economic waste which now results from misfortune. The chief misfortunes are: (1) old age, with which I have already dealt; (2) inability to get work, owing to trade depression or other causes; (3) incapacity to work in consequence of ill health; (4) the loss which the family suffers from the death of its bread-winner. The government proposes to grapple with all these problems and, in doing so, to diminish the great economic waste that is now taking place. In the first place, an effort is to be made to prevent men remaining out of work because of restricted opportunity of finding employment. An act has already been passed which makes provision for the creation in various parts of the country of labor exchanges, on the books of which members of the trades most exposed to fluctuations are to be registered. The groups of trades are housebuilding

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and works of construction, engineering, machine and tool-making, ship and boat-building, vehicles, sawyers, and general laborers working at these trades. The members of these trades number altogether 2,500,000 adult males, roughly about one-third of the total population of the three kingdoms engaged in purely industrial work—including in industrial work commercial, professional and domestic service. The benefits are on a somewhat lower scale and are given for shorter periods than those which the stronger trade unions pay at the present time. These benefits will afford a substantial weekly payment for a period which will cover by far the greater portion of the average period of unemployment for all unemployed persons in this great group of insured trades. The funds needed for this purpose will be provided partly by the workmen themselves, partly by their employers and partly by the state. You will recognize the great advantage to the community of a system of contributory insurance which will enable the homes of our working classes to be kept together in periods of trade depression and ill health, and which will also assist the mothers of families to maintain their children in the event of the death of the bread-winner, without that pressure of poverty and condition of semi-starvation to which they are now frequently exposed.

There is another phase of this question to which I wish to call your attention. If we are to maintain the position we have hitherto held in the manufacturing, commercial and banking worlds, it is of the utmost importance to the state and to employers that education should be as highly developed and as thorough in England as in neighboring states. The Poor Law Commission to which I have referred has unanimously recommended the extension of the school age for children, and both the Conservative and Liberal parties are in unison in desiring to carry this recommendation into effect. There are, however, very great obstacles to be overcome, and the greatest of all is the suffering which the passage of a law requiring children to remain at school until they are fifteen or sixteen would entail upon a great number of families. A few years ago I made inquiries, among persons well acquainted with the working classes and in favor of educational progress, as to the possibility

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of extending the school age, and the replies I received were to the effect that in existing circumstances the period of school attendance could not be lengthened, as such a measure would be an act of cruelty to vast numbers of people. You will realize that persons whose wages are no more than are required to meet their pressing necessities, and who are exposed from time to time to periods of lack of work, to ill health and to widowhood, cannot be required to keep their children at school beyond the age of thirteen or fourteen. At that age most of the children in the elementary schools leave school and obtain work which brings the family an income of five, six or seven shillings per week. To a family whose total income is no more than a pound per week, the assistance afforded by an extra £13 per year after a child reaches the age of thirteen is very great, and the passage of a law requiring children to remain at school for another two years would inflict upon these poor people a severe annual loss. Thus the task of educating our people to the required standard is for the moment blocked by evils which apparently can be remedied. With the introduction of out-of-work, invalidity and widowhood assurance, these evils will be largely remedied, and the greatest obstacle to the improved education of the masses of our people will be removed. In my opinion, the advantage to the country and to employers of making our people more efficient is incalculable. The money expended upon their education will, I am convinced, yield fruit a thousandfold.

The three essentials to a nation's progress are (1) an efficient people; (2) an adequate supply of capital; (3) an adequate increase in population, providing additional numbers of efficient laborers to make use of the capital. In England we enjoy a very large supply of capital. I have already told you that I calculate our wealth at over £16,000,000,000. It is growing at the rate of about two per cent a year, and our savings this year will be nearly £350,000,000. Thus, from the point of view of our capital supply our future is assured. Relatively to the past, our people are more efficient than they have ever been, either actually or in proportion to population. The great number of persons at present unemployed is largely due to the rapid

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introduction in recent years of labor-saving appliances, which have increased the output per man and have diminished the number of men required to produce a given quantity of wealth. Therefore we have a surplus supply of labor upon which to draw in the coming years. In this country you had a similar condition of things in the later nineties, when you were overhauling your methods of production in every direction and were seeking to increase your wealth output per individual in quite an unexampled manner. We have been passing through a similar period in the last few years, and, in consequence of the improved machinery which we have introduced, the amount of wealth produced per head is now much greater than it has ever been. But the increase in the efficiency of the United States and of Germany requires additional efficiency on our part; and it is of the utmost importance that we should secure this by improving the education of our people and by seeking to give them some kind of a technical training before permitting them to leave our schools. One of the principal objects of the budget is to render this possible.

This is the situation as it existed when the chancellor of the exchequer introduced his present budget. He had to make provision for the payment of old-age pensions, involving a total sum of about £9,000,000; he had to make provision for an additional expenditure upon the navy of about £3,000,000; he had to make provision for a further increase in the navy next year, involving an additional expenditure of about £7,000,000; and he had to consider how it would be possible in the more distant future to secure the revenue needed to provide the state's contribution to unemployment, invalidity and widowhood assurance. The budget he has produced is the result of his deliberations. Apparently he has in the one budget made provision not only for the revenue of the current year but for the greater portion of the additional expenditure he anticipates when all the social reform proposals I have outlined are placed before the country. The question which he had to ask, and which we, the people of England, have to consider, is: Who shall bear the burden of the additional taxation? In the past, as I have shown, we have sought to tax the luxuries of our

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people, whether consumed by the rich or by the poor. In the present budget the chancellor of the exchequer has followed the policy which in the past has proved so efficacious in raising revenue and which has contributed so materially to the welfare of the state.

The estimated expenditure of 1909–10 was placed at £165,469,000; the revenue on last year's basis of taxation was calculated to reach only £148,390,000; and a deficit of roughly £17,079,000 had to be covered. In order to meet this situation it was proposed to reduce the sums appropriated to sinking fund from an aggregate of over £127,000,000 to about £97,000,000, and to raise £14,200,000 in the current year by additional taxation. Of this latter sum practically one-half is to be raised by indirect taxation—a taxation which will fall upon the masses and will maintain the existing proportion of direct and indirect taxation. Indeed, it is generally considered that the chancellor of the exchequer has underestimated the yield of the new indirect taxation, and that the sum which will be realized by the proposed duty upon spirits and by the proposed license duties will be much greater than he looked for. It is proposed to increase the duty upon spirits by 3*s* 9*d* per gallon, upon tobacco by 8*d* per lb, and largely to increase the duties upon licensed premises for the sale of alcohol. These taxes the publicans are passing on to the consumer through increases in the prices of beer and spirits. The balance of the sum required is to be obtained by more steeply graduating the estates duties. The maximum and the minimum duties are to remain unchanged; but, whereas hitherto the maximum of 15 per cent has been charged upon estates of £3,000,000 and over, it is now to be charged upon estates of £1,000,000 and over. A small increase has also been made in stamp duties. The taxation upon incomes has been raised from one shilling in the pound (five per cent) to 1*s* 2*d* ($5\frac{5}{6}$ per cent) in respect of "unearned incomes" received from interest and profits on capital of all kinds and in respect of "earned incomes" of over £3000 a year. The duty on "earned incomes" between £2000 and £3000 will remain at one shilling in the pound, while the duty on "earned incomes" of less than £2000 will

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remain at 9*d* in the pound (3¾ per cent). A supertax of 6*d* in the pound (2½ per cent) is also to be imposed on incomes of over £5000 a year upon amounts in excess of £3000. Beyond these additional taxes a change has been made in the system of land-value duties. It is proposed to place a duty of 20 per cent upon the increase in the value of land, a duty of one-half penny in the pound (about one-fifth of one per cent) on the capital value of undeveloped land and a reversion duty of 10 per cent on benefits accruing from termination of leases. The sum expected to be realized from these duties in the current year was placed at only £500,000, but this sum is expected to expand from year to year. You will understand that the increment duty of 20 per cent is a matter of the future only. Land is to be valued at the present time, and a 20 per cent duty is to be placed upon the future increment in the value, dating from the time at which the valuation is made. How much this tax will yield in the future it is difficult to estimate, but, having regard to the enormous advance in the value of urban land in the past and the probable further great increase in the future, the tax should ultimately be a productive one. We have in our country a population of 45,000,000, which is growing at the rate of about one per cent or 450,000 a year. Our wealth is doubling about every thirty-three years, and the value of land seems to rise just about in proportion to the growth of wealth; that is to say, as we grow richer we can afford to pay a higher price for our land, and we have to pay it. Hitherto the unearned increment from land has entirely escaped taxation. Not infrequently it happens that land is let for a period of years at a very low rental in expectation of a great increase in value during the period of the lease. During this period the increment in value escapes the income tax, which is imposed only upon the income actually received from year to year.

There is another provision in the budget which apparently accounts for a great deal of the violent opposition which it has encountered. To arrive at the increment in the value of land a valuation of property is essential, and those persons who possess property are strongly opposed to any such valuation. The

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exact grounds of their opposition are not very apparent. Originally the government proposed that the valuation should be made at the expense of those possessing property; but, in view of the statements that were made as to the burden that would thus be thrown upon owners of property, the government agreed to throw the cost of the valuation upon the exchequer. This concession has not diminished the opposition to the proposal. Personally I am at a loss to understand the reason for the objection to the proposed valuations. Some persons affirm that the objection arises from the fact that a very large number of estates have not been revalued for taxation and rating purposes for many years, that at present they are undervalued, and that revaluation will mean that much larger sums will have to be paid not only in taxes but also in rates for local purposes.

I have endeavored to give you the main lines of our budget and of the measures for social reform contained in the proposals. I have examined these proposals critically, for the purpose of ascertaining whether they are likely to affect the independence of our people or the welfare of either poor or rich; and the conclusion to which I have come is that they are proposals which should commend themselves to rich and to poor alike. By diminishing the waste that results from the existing condition of affairs, the wealth of the nation will be largely increased; and by increasing the efficiency of the nation, which is the main object of the proposals, the wealth both of the poor and of the rich will expand at a much greater rate in the future than in the past. These measures, I am convinced, will assist Great Britain to hold her own in the march of progress and will enable the British Empire to maintain a high place among the nations which are doing so much for the civilization and for the happiness of the world.

GEORGE PAISH.

LONDON, ENGLAND.

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REVIEWS

Retrospections of an Active Life. By JOHN BIGELOW. New York, The Baker and Taylor Company, 1909.—Three volumes: xiv, 645, 607, 684 pp.

These three stout volumes are apt to discourage a reader when it appears that the period covered by them is but fifty of Mr. Bigelow's ninety-two years. Yet one who plunges into the current will willingly be borne with it to the end and will joyously greet the intimation of Mr. Bigelow's "Prelude" that opportunity for a further progress may be expected. Not that the journey thus far permitted is of a uniformly thrilling and absorbing interest. The course of Mr. Bigelow's *Retrospections*, like the course of the noble river on whose banks he has from birth found his greatest happiness, is at some points quite destitute of exceptional and striking features. The upper reaches of the Hudson are pretty, placid, not exactly commonplace, but at the same time not exciting. At the Highlands there is much picturesqueness and rugged grandeur. Mr. Bigelow's *Retrospections* reach their Highlands at the Civil War. It was largely with a view to contribute something to the record of this period of storm and stress in our national life that he undertook the preparation of his volumes.

It must be said, summarily, that the work adds no item of the highest grade of importance to our knowledge of the times. Yet in a multitude of ways Mr. Bigelow throws useful light on facts that have already been made known. The most distinctive feature of his work is, however, the revelation of himself. We see in full detail the character, spirit and achievement of a strong, balanced, sagacious patriot, whose labor in the time of the country's greatest need was of the utmost importance. Mr. Bigelow was a Van Buren Democrat. In the period of the Free-Soil movement he was on intimate terms with all the leaders of political thought and action in New York state and with many in other parts of the country. In 1848 he purchased a part interest in the New York *Evening Post* and became the efficient partner of William Cullen Bryant in the conduct of that journal. The paper prospered, and at the end of 1860 Mr. Bigelow, having raised his worldly possessions to the then magnificent proportions of $175,000, retired from business at the age of forty-three. He felt himself wealthy

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enough to provide for his family and cultivate the taste for scholarship and literature that had always been strong within him. A few months later the country was convulsed with civil war and Mr. Bigelow was peremptorily summoned to aid the government in its foreign relations. He gave up his plans for literary leisure, proceeded straightway to Paris, and there, first as consul-general and finally as minister, he did powerful service in combating the private prejudice and governmental malevolence that wrought incessantly for the cause of the Confederacy. Not until 1867 was he permitted to return to the United States and take up the life of leisure that he had sought long before.

The form of Mr. Bigelow's *Retrospections* is chiefly that of letters sent and received, with here and there the interpolation of a few explanatory and supplementary paragraphs. It is in these all too scanty paragraphs that we find the clearest expression of Mr. Bigelow's own judgments of passing events. We find here his latter-day philosophy of the great political movements in which he took part. There is in this philosophy, perhaps, rather much of the judgment of the older man as compared with the emotions of the younger and contemporary man. Read, for instance, his reflective avowal that, if he could have known in 1860 what streams of blood and what years of demoralization and corruption were destined to follow his light-hearted and confident anti-slavery propaganda, he would have willingly relaxed the eagerness of his demand for immediate abolition and would have been satisfied with some gentler and slower method of exterminating slavery (I, 391). Quite interesting, just at this point, is Bigelow's report of a prophetic saying of Samuel J. Tilden that made a deep impression upon him. Tilden was extremely sober as the election day approached in 1860 and the success of the Republicans became assured. The *Post* was supporting Lincoln and was indulging in the normal violence of election-time editorial attack on its opponents. Tilden, on intimate personal terms with Bigelow, entered the office of the *Post* one day and observed: "I would not have the responsibility of William Cullen Bryant and John Bigelow for all the wealth in the sub-treasury. If you have your way civil war will divide this country and you will see blood runing like water in the streets of this city" (I, 292).

Among the correspondents whose letters appear frequently in Mr. Bigelow's volumes are Sumner, Thurlow Weed, John Lothrop Motley and others in conspicuous public positions. In the letters of these men are to be found some of the most suggestive and illuminating items of historical interest that Mr. Bigelow reveals. It is astonishing, for instance, to find, in a letter from Sumner, the opinion that "Soulé is a

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generous, chivalrous character" (I, 129). When we recall that Soulé was one of the fiercest of the "slavocrats" and a participant in the promulgation of the Ostend Manifesto, this sentence of Sumner's gives us pause. In the letters of Thurlow Weed we find sundry passages that are particularly interesting when taken in connection with Gideon Welles's *Diary*, now being published. Mr. Welles, in his communings with himself which his son is now giving to the light of day, resorted very frequently to disparaging remarks about Seward and Weed and the whole of that old Whig combination in politics. That Welles's derogatory opinion of these men was reciprocated by them is established by various remarks in Weed's letters to Bigelow. For example, Weed writes, on March 15, 1863: "Charleston would have been taken a month ago if old Welles had been in Hartford and a true man in his place" (I, 609). And again, a few months later, Weed refers to "our immense navy with a bass-wood head" (II, 22). This unflattering opinion of the secretary of the navy does not appear to have been shared by Mr. Bigelow himself, whose relations with Welles were entirely friendly. It is indeed a striking fact of the whole war-time situation that Bigelow, though, like Welles, an *ante bellum* Democrat, never shared the antipathy toward Seward and Weed which was one of the most common attributes of the War Democrats. Whether Bigelow's favorable judgment of Seward's character and work was due primarily to the fact that Seward was his superior in administrative office, or whether it had a more impartial foundation, is an interesting question. To one who knows the intensity of the dislike with which most of the old Democrats regarded Seward and Weed, it seems odd that Mr. Bigelow, while sharing always the confidence of the Democrats, shared at the same time the confidence and respect of these bitterly hated old Whigs.

Part of the second and most of the third volume of the *Retrospections* are concerned with the affairs of the French mission during the negotiations with the French government, first, over the relations of Napoleon with the Confederacy and, second, over the situation in Mexico. Very little of this great mass of matter conveys information or suggests points of view that have not before been made familiar to students of history. There is interest in the matter from its clarification of Mr. Bigelow's own personality and ability. He shows himself to have been as efficient in diplomacy as previously in journalism. It is unnecessary, however, for the purposes of this review to dwell especially on this later phase of his public career.

WM. A. DUNNING.

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L'Europe et la politique britannique, 1882–1909. By ERNEST LÉMONON. Paris, Félix Alcan, 1910.—viii, 555 pp.

An attempt, such as M. Lémonon has made, to write a history of European diplomacy during the past quarter of a century arouses misgivings. At best one can hope only for something in the nature of good journalistic work, something like a correct recording of known events. The secret history behind these events is still locked up in the chancelries of Europe; and any attempt to read the minds of ministers and the intentions which lay behind their actions, especially when these ministers belong to three or four alien nations as well as to one's own country, must necessarily fail. It is therefore not surprising that M. Lémonon's account of English policies should be as complete a surprise to an Englishman as his view of German affairs is to a German. The chief fault with M. Lémonon's book is that he is not content to leave anything unexplained. He must supply the motive and policy of every move and make every move a part of a continuously observed policy; and in trying to do this he leaves out of consideration, except in the case of his own countrymen, the character and individuality of the statesmen whose action he explains.

Even as a piece of journalism, M. Lémonon's work might easily have attained to a higher level of accuracy. British politics are undoubtedly difficult for a Frenchman to follow; but a man who aspires to write authoritatively on the relations of Great Britain to continental Europe should make sure that his statements are correct. The mistakes that M. Lémonon makes are many and obvious. He speaks of Rosebery as a Conservative in 1894—a statement that might be considered defensible as an anticipation but which is incorrect as regards that year, when Rosebery was prime minister of a Liberal administration. He attributes the Ballot Act of 1872 to Beaconsfield. He blames Gladstone for being indifferent to the cry for reform when he assumed office in 1880—ignoring the fact that dissolution must follow an act extending the franchise, and that it would have been the worst possible policy for the Liberals to pass a bill in 1880 that would have entailed another general election in 1881. He makes Majuba Hill a contest between the English and the Zulus under Cetewayo, and he says that Gladstone, seeing that the position of the English as regarded the Zulus was uncertain, restored Cetewayo to the Transvaal and withdrew from the country.

It will readily be seen that M. Lémonon's work cannot be taken as authoritative. Useful and suggestive it certainly is, if read with proper

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caution. His graphic description of the long friendship between England and Germany and the way in which this friendship withstood the many strains to which it was subjected by the clashing of German and English colonial interests in South Africa is most instructive. Side by side with the story of the long antagonism between France and England and the gradual replacing of this antagonism by friendliness and the *entente cordiale*, it suggests the possibility of the present Anglo-German hostility being short-lived. At the present time, fortunately, there are no causes of friction between England and Germany which seem nearly as formidable as the former rivalry at Walfisch Bay in Uganda or in New Guinea. Had the present state of tension between the two countries arisen before the delimitation of their respective spheres of influence in South Africa, war might have become inevitable. At the present time, while much ill-feeling has been stirred up, there seems to be little conflict of interest between the two nations.

M. Lémonon is profoundly convinced of the importance and benefit to France of the Anglo-French understanding. Throughout he writes of England as one would write of a valued ally. And yet few Englishmen would accept his account of Anglo-French dealings in Egypt or in Madagascar. Nor would Englishmen generally allow that regard for native rights is merely a cynical pretence on the part of English ministries, or that England's policy at all times and seasons—no matter how engrossed her people might be in their own internal affairs—has been for colonial expansion and the enlargement of the empire. When M. Lémonon comes to deal with Germany, his frank hostility makes him even less capable of accuracy or fair judgment, and no one would turn to his pages for a fair account of Bismarck's achievements. Germans and English alike, however, may derive some profit from M. Lémonon's volume, if it is only to see themselves from the point of view of a foreign nationality.

A. G. PORRITT.

HARTFORD, CONN.

A History of Commerce. By CLIVE DAY. New York, Longmans, Green and Company, 1907.—xli, 626 pp.

"Of the four qualities," the author tells us, "which Matthew Arnold thought to be of the greatest importance in an introductory manual, clearness, brevity, proportion and sobriety, the quality which I have tried with the most conscious attention to realize in this book has been proportion." To include within five hundred and seventy-five pages a clear, brief, sober account of ancient, mediæval, modern

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and recent commerce is remarkable enough; to preserve the proper proportion throughout is an achievement. Then too, Professor Day's book is interesting—students find it so—and withal it is accurate. The material is arranged chronologically and logically in such a way as to present each phase and subject separately, without in any way interfering with historical continuity. At the end of each chapter pertinent questions and topics are suggested for further study, and to each of these is added a carefully selected bibliography for collateral reading and reference. At the end of the book is given a general list of authorities, which will be of great value to teachers, research students and investigators. The maps are few and simple, which, in the reviewer's opinion, is an advantage. The statistical tables are also simple, short and clear, showing at a glance exactly the proportions and contrasts required to elucidate the text. Finally the elaborate table of contents and concise index render the work readily available for reference and review.

In the author's treatment of ancient commerce, certain statements are made which the reviewer is disposed to question. Egypt's isolation is to be attributed rather to the intricate Nile delta than to the surrounding deserts. The sea was not a "hindrance" to Babylon's development; on the contrary, because of the easy outlet of the Persian Gulf, she became the earliest sea-trading state of the ancient world. As Ihering said: "Küstenfahrt ist halbe Stromfahrt; aber sie ist auch bereits halbe Seefahrt." In the establishment of Solon's rural democracy in Athens, the natural products—oil, figs and wine, especially—were at one time of paramount, not of "comparatively slight" importance. In the treatment of mediæval commerce too little importance is attached in Professor Day's work (as in all other works I know of, for that matter) first, to the influence of the Saracens on European commercial development, and second, to the effect of the influx and efflux of the precious metals. Reference on the one hand to the Arabian Nights, on the other to Patterson's *New Golden Age* or to Brooks Adams's *Law of Civilization and Decay* would be beneficial in these matters.

Because of the paper used, the book is heavy. There are also numerous typographical errors; for example: "Venetian" (page 13) for Phœnician, "wrecked" (page 61) for wretched, "Berona" (page 95) for Verona. On the whole, however, Professor Day's *History of Commerce* is well printed and published.

LINDLEY M. KEASBEY.

UNIVERSITY OF TEXAS.

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South America on the Eve of Emancipation: The Southern Spanish Colonies in the Last Half-Century of their Dependence. By BERNARD MOSES. New York and London, G. P. Putnam's Sons, 1908.—vi, 356 pp.

Le Brésil au xx^e siècle. By PIERRE DENIS. Paris, Armand Colin, 1909.—312 pp.

Less comprehensive than either the title or the sub-title of the work would indicate, the purpose of Professor Moses, as stated in his preface, is to present "some phases of colonial history and social organization." Persuaded that the annals of the Spanish colonies "furnish interesting episodes but not material for a sustained, dramatic narrative," and that in "attempting to make a connected story of the events . . . a writer runs the risk of producing merely a chronicle, or of doing violence to the perspective of time," he dismisses forthwith the possibility of writing a history of colonial Spanish America or of any part of it. Instead, he devotes eleven chapters of his book to miscellaneous studies of colonial life in what are now Peru, Chile and the Argentine Republic, and two chapters of a general sort to "Colonial Industry and Commerce" and to "The Public Revenue."

In view of the scarcity of literature in English on Latin-American history, these studies are decidedly useful; but a perusal of them leaves the reviewer in doubt as to the body of readers for which they are intended. The specialist looks in vain for an annotated bibliography, exact or even copious references to authorities, a map of the numerous places mentioned or an orderly presentation of the materials in each chapter. He feels disappointed in an offer of thirteen pages on "The Public Revenue" and of twenty-four pages on "The Church and its Relation to the Civil Power," as contrasted with seventeen pages on "An Interior Province," and thirty-six pages on "The Captaincy-General of Chile." He perceives and appreciates the great amount of reading that the author has done, but he wishes that less familiar sources had been used, that there had been less roaming over the whole of colonial Spanish America, and that such inaccuracies of statement had been avoided as are found in the title of the first chapter, and in "Argentinos" (page 269), "the coming of the Austrian kings in the eighteenth century" (page 313), "an edict of Charles V, October 5, 1501" (page 331), and "the mines of Potosé alone, in their first ninety years, produced 395,619,000 dollars" (page 335).

On the other hand, save for occasional quotations, the general

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reader will find little to attract him in pictures which reveal more of the canvas mesh, the paint and the brush than of harmonious and pleasing illusion. He gains no particular satisfaction, for example, in learning, on pages 34, 37, 75, 320 and 321, that the province of Cuyo had been separated from the captaincy-general of Chile, nor is he apt to care much about assortments of statistics or lengthy descriptions of inert administrative machinery. The value of the book is undeniable, but what is presented is not as interesting as the material from which it is taken.

In his treatise on *Brazil in the Twentieth Century* M. Denis describes the physical features, the routes of trade, the political institutions, the economic conditions and the classes of the population with a grasp of detail which shows him to be familiar with these phases of life in the great republic of the south. Within the limits chosen his attitude is that of the calm and patient observer who tries to tell things as they are and does not unduly obtrude his personal opinions. At times his bent toward natural science may warp his sense of proportion, but his Gallic gift of smoothness compensates for any such defect.

American readers will find the author's comparison of Brazil with the United States rather interesting. The parallel between the two countries—a common topic of conversation in Brazil—he finds to be one of size, of potentiality and of little else. Some similarity may be traced between the domination of Virginia and that of the State of São Paulo; but even here the one belongs to the past, the other to the present. Contrary to the situation in the United States, there is in Brazil an aristocracy which, in spite of a political organization quite democratic in form and of a political creed quite democratic in theory, acts as a ruling class over the great body of negroes, Indians and half-castes constituting the major part of the population. Brazil, moreover, is distinctly an agricultural nation, and the aristocracy is made up chiefly of landed proprietors. The Brazilian prefers the country to the city. This circumstance M. Denis attributes less to the charms of nature as such than to the influence which the great estates (*fazendas*) wield over their possessors. Nor in the history of Brazil has there been any western migration, bringing with it the conquest of forest and prairie, similar to that which has contributed so greatly to the national development of the United States. Another point of difference between the two countries may be quoted in his own words: "One cannot come to the United States without being forthwith surrounded, questioned, advised and chaperoned by American women; nothing like this in Brazil."

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Instructive as the book is to those who seek information on the material side of Brazilian life, it fails to supply just the kind of knowledge which Americans, and many Europeans withal, need in order to disabuse their minds of the current notion that the peoples who dwell to the southward of the Rio Grande, whatever else they may be, are barely half-civilized. An account of Brazil in the twentieth century which is confined to a description of land, people, government and material occupations, and which has nothing to say about education, charity, science, literature and the fine arts, is not only incomplete but highly unfair. In the case of the Latin-American republics, more than of any other states of the world, to preserve silence about the evidences of culture is to imply its non-existence.

WILLIAM R. SHEPHERD.

The Autobiography of Sir Henry Morton Stanley. Edited by his wife, DOROTHY STANLEY. Boston and New York, Houghton Mifflin Company, 1909.—xvii, 551 pp.

The future historian will easily recognize three figures dominating, in the last quarter of the nineteenth century, the destiny and development of Africa—Cromer, master of the Nile valley in the north; Rhodes, pioneer and educator in the south; and Stanley, soldier, author and statesman, spanning the continent from the Indian Ocean to the Atlantic. Behind these men, of course, were the politics and the policies of Europe; but by virtue of their personal power and qualities the names of these three, none of them a "little Englander," are writ large upon the map of the once dark continent. The appearance of Stanley's *Autobiography* is so timely as almost to justify one in repeating the well-worn phrase and saying that it comes at "the psychological moment." The taking-over of the Congo Free State by Belgium, the death of Leopold and the consequent reversion of the Lado enclave to Great Britain, the union of British South Africa—these recent events bring vividly to public attention the present and the future of the Congo and of the entire continent; so that this book, which floods with light the beginning of the regeneration of Africa, becomes of the first importance. As in many similar cases, the posthumous character of the work enlarges its scope and increases its frankness and directness. Many things which could not have been told during the lives of the actors and in the immediate proximity of the events can now be published without reserve; and thus the *Autobiography* becomes at once a classic of African politics and diplomacy,

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giving within a few chapters a far more intelligible groundwork for a thorough study of the beginnings of the transformation of the continent than is elsewhere available. Of the opening of Africa, considered broadly as the introduction of modern methods of civilization, of steam and electricity instead of arms and missions with which to turn tribes from savagery, the *Autobiography* is a clear and unreserved exposition; and at the same time much light is thrown on the attitude of Great Britain, particularly under the Gladstone régime, to the problems of the Nile valley and of the ultimate partition of the continent.

On every page of what may be called the international chapters is stamped Stanley's personality. Dominant, resolute and courageous, he was "a hard man" only to the weaklings and the cowards, and to the adventurers and speculators who always camp on the trail of explorers, watching for opportunities of personal profit. In the three great African expeditions one can follow Stanley's development from the impetuous, chivalrous adventurer, whose duty was to "find Livingston," to the full-grown master of men, who has worked out for himself the policies to be pursued for their control and elevation. Had Stanley's own country given him for a quarter of a century a free hand in Africa—and that would have meant Gordon as his confidant and associate in civil and military authority—the map of the present and the problems of the future would be other than they are.

That Stanley was one of the most original and many-sided of men has long been known to the world; but even those most familiar with the man and with his life will draw from the study of this book a higher estimate of his versatile powers and of his mastery over them. More like a romance than like a plain tale reads the narrative of the Welsh poorhouse lad, the 'fore-the-mast sailor, the southwestern trader, the Confederate soldier, the prisoner of war, later enrolled in the Union army and navy, the western plainsman, the war correspondent in Abyssinia, in the Caucasus and among the Spanish Carlists—a career so full, vivid and intense that perhaps nowhere else in the world's history was there a training which so thoroughly qualified the man for his destiny. Stanley wrote much and well for newspapers and magazines and in books, but in none has he revealed himself as in this *Autobiography*. He wrote it, as he says, for those who were to come after him, that it might "either comfort, amuse, instruct or benefit the living and encourage them in their careers." As to the work of the editor, it is sufficient to say that the artistic touch of Dorothy Tennant and the wifely admiration of Lady Stanley are apparent on every page.

HERBERT L. BRIDGMAN.

BROOKLYN, N. Y.

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Selections from the Economic History of the United States, 1765–1860. With introductory essays. By GUY S. CALLENDER. Boston, Ginn and Company, 1909.—xviii, 819 pp.

The last volume in the series of "Selections and Documents in Economics" is particularly welcome, because it makes available for the general reader and for class use a large amount of valuable material which was widely scattered and in large part inaccessible. More than this, it gives coherence to a subject which is now being widely introduced into college curricula. The wide choice of selections and, above all, the editor's illuminating and thoughtful introductory essays, which precede each chapter, give evidence of the labor and care bestowed upon its preparation. It embraces not merely a description of the industrial occupations of the people but takes in all phases of their economic life. According to Professor Callender:

> The economic history of a country ought to embrace three fairly distinct matters: first, it should describe and explain the economic life of the people at all stages of their development; second, it should investigate the relation of economic affairs to politics; third, it should attempt to show the influence of economic life upon the social evolution of the country.

These three matters are illustrated in different proportions, in about the order of importance as given, though the last and most elusive is given scant space as compared with the other two.

While high praise must be accorded the book as a whole, one great fault of omission must be noted—the absence of any treatment of agriculture. In the chapter on "Colonial Economy," one citation dealing with the subject is put under the caption "Miscellaneous Features of Economic Life," and that in a community where certainly four-fifths of the population were engaged in that pursuit! Of minor significance is the absence of any account of the various commercial crises during the hundred years covered by the volume. In his treatment of colonial economy, Professor Callender properly emphasizes the importance of the West Indies, both to the nations of Europe and to the American colonies, and the relatively slight importance of the New England colonies to Great Britain. In his treatment of colonial policy he follows the lines marked out by Beer and Ashley.

In his discussion of the Revolution, the breakdown of the Confederation, the adoption of the new Constitution and the foreign relations of the government, Professor Callender gives a materialistic interpretation of American history that is suggestive and refreshing. The Revolution

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was the result, in part at least, of a period of commercial depression, and the Constitution was floated in on a flood-tide of commercial prosperity. This phase of the subject is evidently a favorite one with the editor and should prove of interest to historians. For the economist, however, more interest attaches to the treatment of the period from 1815 to the Civil War. The rise of internal commerce marked the transition from the colonial to a national economy and was caused by the extension of cotton culture into the Southwest and by improvements in the means of transportation, permitting a national division of labor, according to which the South raised cotton, the East manufactured it and the West produced food and supplies for both. The importance of markets, both in the colonial period and later in the settlement of the West, is emphasized again and again by the editor. In his discussion of western pioneering he emphasizes a generally neglected point, namely, the evils of too great dispersion of the population; this chapter is particularly full. The treatment of transportation, currency and the public lands may be criticized on the ground that only the relation of the federal government to these matters is illustrated, although the relation of the states to internal improvements, to banking and, in the earlier period at least, to the disposal of the unoccupied lands was even more important than that of the federal government. In Professor Callender's valuable article, published some years ago, on "The Early Transportation and Banking Enterprises of the States in relation to the Growth of Corporations," numerous citations were made from state documents which might with advantage have been included in the present volume. A short chapter on the rise of manufactures is followed by a long one on the tariff, in which Professor Callender agrees with Professor Taussig, ascribing to the tariff small influence upon economic development. The organization of labor and capital is illustrated briefly: the real labor problem of this period consisted in organizing and training a body of operatives rather than in securing for them their industrial and political rights. A valuable concluding chapter deals with "The Economics of Slavery"; for many of the evils usually attributed to this institution Professor Callender holds the lack of capital in the South responsible.

Although the volume is already very full—almost too full for complete use in collateral reading—it is to be hoped that room will be found in any future edition for an adequate treatment of agriculture. It may be suggested also that an index would add to its serviceableness.

ERNEST L. BOGART.

UNIVERSITY OF ILLINOIS.

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Chapters on Municipal Administration and Accounting. By FREDERICK A. CLEVELAND. New York, Longmans, Green and Company, 1909.—xvi, 361 pp.

The fundamental thesis of this book is expressed in a few quotable sentences:

> The limit of social organization is the limit of human ingenuity to devise systems of inspection and of administrative account and statistics which may provide the means for intelligent official direction and for comprehensive reports to the proprietor, the stockholder or the citizen [page 15].
> The man who pays taxes does not pay for bad government; he pays for good government. He pays for protection to the community; for the protection of each member alike, whether taxpayer or non-taxpayer. If government is not efficient, it is not the taxpayer as taxpayer who suffers, but each individual member of the community as the beneficiary of public funds [page 26].
> From the point of view of public morality and institutional efficiency, is it not just as important to control a million dollars' worth of goods as it is to control a million dollars of cash with which the goods are to be purchased? [page 37].
> It has come to be recognized that the malfeasances, the misfeasances and the nonfeasances of office in the past have not been due to lack of law. The law at all times has been adequate to bring to justice every person who has proved false to a public office or trust. Failure of justice in every instance has been due to the same cause as inefficient administration, *viz.*, insufficiency of evidence—in other words, the inability of the courts to get at the facts [page 42].
> When a method shall be installed which will make and preserve the evidence of personal credit or discredit to be attached to the acts of each official and municipal employee, then and not till then will municipal administration lose its taint and men and measures be chosen with the same assurance that now obtains in industrial and commercial lines [page 72].
> A first essential . . . is a system of accounts and operative statistics by means of which an intelligent conclusion may be reached as to the public service rendered and as to the cost of such service in each of the several departments, divisions, and institutions asking for public support [page 74].

This thesis few who read the other pages of this volume are likely to doubt. The doubters are those who do not believe that any system of administrative organization, accounts and statistics can be devised to show just what has been done and who has done it. Mr. Cleveland's book gives many concrete facts showing wherein, under old-fashioned methods, responsibility for evil was in part unknown and in part im-

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possible to trace; he gives a few illustrations of improved methods actually applied and found effective; and he gives a good many illustrations of plans suggested but not yet put to trial. Altogether the book sets forth an apparent way of salvation from municipal maladministration or non-administration—a way that promises much and, though initially expensive, is sure to result not only in direct financial economy but also in better economic conditions and a sounder public moral sentiment. It may not be a panacea, but it is sure to prove at least a palliative.

It is a disagreeable task for a critic who has before him a book so admirable in substance to say unpleasant things about the form of presentation. This volume consists of twenty-one addresses, reports or journalistic articles, each written originally for one of seventeen distinct bodies of readers or listeners. It is inevitable under such conditions that no unity of form can underlie the chapters. For instance, Mr. Cleveland, addressing seventeen audiences, felt called upon to make seventeen sets of introductory remarks. This does not mean, however, that he has printed the so-called "preliminary remarks" that are commonly thought fit to grace "the felicity of the occasion"; but only that certain fundamental principles are commonly stated for each separate audience, and the repetition of most of these is, for the reader of the series, not only unnecessary but somewhat irritating. The reader does not know that he may skip whole paragraphs until after he has read them. Indeed, these introductory passages, many of which are introductory not only to addresses as a whole but to parts of addresses and hence are scattered through the text, in the aggregate amount to a very considerable portion of the book. Some of the addresses as a whole, moreover, are really repetitions, in another form, of principles already enunciated in other addresses in slightly different applications. On the whole, therefore, the amount of repetition is enormous.

The other fault in form lies in the fact that the illustrations of any particular point are scattered through the book among various addresses. Mr. Cleveland was doubtless interesting to his listeners and original readers, and he gave new illustrations to each set; but the scattering, through a volume, of information on any one topic is unfortunate. The disadvantage is increased by the fact that there is no index.

One wonders at this disregard of form, for Mr. Cleveland has a passion for classification. Nothing capable of division and subdivision escapes him in his subject-matter; and one report dealing with a public document (a New York school report) is devoted in large part to

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an unfavorable criticism of its form. The probability is that Mr. Cleveland did not contemplate the publication of a monograph but only the reprint of some addresses. The pity is that he did not choose to rearrange his material and edit his text on an outline such as he has shown himself admirably able to construct.

An implied *obiter dictum*, which we hope Mr. Cleveland did not intend, is worthy of notice because to many it may suggest that the work of municipal reform in which Mr. Cleveland is engaged is purely mechanical and materialistic. On page 16 he implies that a hired mistress chooses between associating "with men and women of intelligence," "the only price being that she shall forsake the code of conventions," and remaining "an outcast because she works." If leaders of municipal reform think chastity is a mere "convention," and that every girl without a dividend income is treated as "an outcast because she works," the hope of progress in city life is indeed small. We know, of course, that Mr. Cleveland has merely been the victim of an inadvertence in expression; but we hope he will correct the implication before his book is reprinted or when the substance of it is recast.

WILLIAM MORSE COLE.

HARVARD UNIVERSITY.

Cours d'économie politique. By CHARLES GIDE. Paris, Larose et Tenin, 1909.—796 pp.

The new *Cours d'économie politique* is an enlargement of Professor Gide's popular *Principes d'économie politique*, successive editions of which have been noticed in this journal. The place assigned to political economy in the curriculum of the French law faculties has, it seems, been enlarged; and the *Principes* having been found insufficient, the new *Cours* has been published with the object of preparing the student adequately for the wider scope of the new examinations. There are about fifty new sections, dealing chiefly with concrete problems of the day.

It is impossible to read Professor Gide's text without paying tribute anew to its pedagogical excellence—to its clarity of style, felicity of illustration and doctrinal catholicity. The new sections, besides being timely and important, possess all the stylistic virtues of the old; but they are in too many instances perfunctory and, it must be said, superficial. One is not surprised to read, as the author frankly confesses in the preface, that the enlargement has been undertaken "par nécessité pédagogique, mais sans beaucoup d'enthousiasme d'ailleurs."

Professor Gide himself prefers the earlier *Principes*. He fears that

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the severe and simple elegance of political economy proper will be more or less distorted by the incorporation of the less manageable material which appeals to the practical student. Personally, we do not feel that the science need be disarranged, or indeed anything but improved, by a somewhat more inductive treatment. What forces us to share the author's preference for his earlier work is the manner in which the new material has been handled. It should, if we may use the critic's privilege of dogmatizing, have been cut down one-third in amount and handled three times as thoroughly.

Teachers of elementary economics everywhere are under a real debt of gratitude to Professor Gide, and it may seem gratuitously offensive to criticize a work so modestly presented. But the reviewer feels that an important opportunity has been missed. The technical school and particularly the college of law that honors the science by enlarging its place in the curriculum should get in return better political economy, not simply more of it.

T. S. ADAMS.

UNIVERSITY OF WISCONSIN.

Forest Finance. By C. A. SCHENCK. Asheville, North Carolina, Inland Press, 1909.—44 pp.

Forest Management. By C. A. SCHENCK. Asheville, North Carolina, Hackney and Moale Company, 1907.—33 pp.

Dr. Schenck received his technical training in forestry in Germany, of which country he is a native. In 1897 he became forester on the estate of Mr. George W. Vanderbilt, in the vicinity of Asheville, North Carolina—an estate including more than 100,000 acres of forest land. This position Dr. Schenck held until recently; and, in connection with his practical work, he conducted a private forest school, the only one of its kind in America, at which he gave to students lectures and practical training on the forest tract. At present he is devoting his whole time to this school, having severed his connection with Mr. Vanderbilt.

Dr. Schenck has always placed great emphasis on the practical side of forestry, including lumbering, and has been more interested in the features of private forestry than in the problems that concern state and national forest administration. Other writings of his, on *Forest Utilization*,[1] *Forest Mensuration*[2] and *Sylviculture*,[3] deal with subjects of technical interest only.

[1] Biltmore, N. C., privately printed, 1904; 118 pp.

[2] Sewanee, Tennessee, University Press, 1905; 71 pp.

[3] Biltmore Lectures on Sylviculture. Albany, N. Y., Brandon Printing Company, 1907; 184 pp.

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Forest Finance is an outline and condensed statement of the material presented in a course of lectures given to the students of the Biltmore forest school. The scope of these lectures may best be indicated by summarizing, in the order of Dr. Schenck's paragraphs, the topics discussed: (1) The scope of the subject; the relation of the financial problems involved to those arising in other long-time investments, as life insurance; and the importance of the subject to the private timber owner. (2) The formulæ used in compound interest calculations. (3) The laws of increase in value which affect growing forests and the methods of computing the increase. (4) Methods of determining and comparing the receipts and expenses in forestry. (5 and 6) The effect of increasing taxes upon the expense of timber production, and the ratio which the total expense for protection bears to the final value. (7) An analysis of the economic laws affecting the value of capital, classed as natural resources and products of human labor; the tendency of certain forms of capital to increase or decrease in value. (8) General principles governing the rate of interest earned by capital, and the application of these principles to forest property. (9) Formulæ for obtaining expectation value of young forests. (This is the present equivalent of a future value, which may greatly exceed the actual present-sale value, as with small timber.) (10) The factors which affect the true sale value of woodlands. (11) The method of gauging financially the merits of a forest investment. (12) Methods of determining the financial maturity of single trees. An appendix gives tables of compound interest.

With the exception of the discussion of capital, interest and sales values, the work is of value to the forester and technical student rather than to the general reader. It is essentially an outline for use in class. It is assumed that the reader understands the derivation and use of the mathematical formulæ given. The pamphlet is a distinctly valuable contribution to the scientific literature on the subject of forestry. It presents many features of forest finance in an original manner, and one well adapted to the conditions existing in America.

Dr. Schenck's *Forest Management* considers the subject in its narrower interpretation; it is a discussion of the principles of forest regulation or working plans. Chapter i explains the conception of the ideal forest from which a sustained equal production of wood may be obtained annually. Chapters ii and iii discuss the subdivision of forests for management and the subjects considered in a working plan report, such as mapping, forest descriptions, yields, silvicultural and protection problems, lumbering and financial possibilities. This portion

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of the text is of especial value to American foresters. In chapter iv a summary is given of the different theoretical methods which have been used in European states and elsewhere to regulate the yield or annual cut of forests and to bring them gradually to a state of perfection in which sustained yield is possible. This chapter is commendable for its brevity; it is a clear exposition of the theories without the inclusion of any superfluous details. The final chapter presents certain modern methods of forest regulation, in which no attempt is made to obtain sustained yield, but each stand of timber is managed separately for the attainment of the highest returns upon the actual cost of the stand figured at compound interest.

Dr. Schenck does not attempt to prescribe in detail methods for the management of forest lands; he confines himself entirely—and properly—to a consideration of the business principles involved in such management, which are generally applicable to all forests. His lectures are suited to the needs of the students of technical forestry and of those interested in the subject from a professional standpoint.

HERMAN H. CHAPMAN.

FOREST SCHOOL, YALE UNIVERSITY.

Socialism in Theory and Practice. By MORRIS HILLQUIT. New York, The Macmillan Company, 1909.—ix, 361 pp.

Morris Hillquit is perhaps the most prominent of the American socialists. He enjoys an enviable reputation as a scholar and as a public speaker. When he was a candidate for Congress in one of the districts on the lower east side of New York City, he received active support from many persons not allied with the socialist party, and he was beaten only because the Republicans, by agreement, supported the Democratic candidate. Some years ago Mr. Hillquit published a *History of Socialism in the United States* which is still the only book of its kind.

The work under review is a broad discussion of the whole question of socialism. There are two main parts and an appendix. In Part I Mr. Hillquit treats of the socialist philosophy and the socialist movement as a whole; in Part II he discusses various schemes of social reform from the purely socialistic point of view; in the appendix he gives a brief historical sketch of the socialist movement in each of the countries where it has attained any degree of importance.

In his interpretation of the philosophy of socialism, in Part I, Mr. Hillquit presents very little that is new. This, however, is not to his

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discredit, for few socialists have been able to add to Marx's brilliant philosophical analyses. Of great interest, however, is the application of the Marxian theories to America by one who, like Mr. Hillquit, is an American and is familiar with the history as well as the modern conditions of life and industry in the United States. In the six chapters that make up this part of the volume, Mr. Hillquit applies most rigorously the doctrine of economic interpretation of history from the point of view of class struggle. He outlines, in the first place, the accepted socialist conception of society, as a product of evolution. He further endeavors to show that our whole system of ethics, our codes of law and even the state itself are products of the class struggle, and that, in all important aspects, they represent instruments in the hands of the propertied class for preserving its class rule. It is interesting to note, in this particular, that Mr. Hillquit makes little use of Marx's doctrine of increasing misery. He does not escape its influence entirely, but he applies it chiefly in picturing the final doom of the middle class. He believes socialism to be inevitable rather because of the increasing strength and enlightenment of the working class than because of an ultimate, intolerable misery.

The transition to the socialist state, our author thinks, will probably be gradual; and will be effected, through the adoption of the reforms now advocated by his party. Violence, he says, has no place in the socialist program (page 103).

The picture that Mr. Hillquit draws of the future socialist state he himself considers to be little more than a product of imagination. He believes that attempts to draw such pictures are little better than wasted efforts; because, after all, what the socialist is interested in just now is to secure as rapidly as possible a series of reforms modifying the present system and eliminating its evils, and what the ultimate form of society will be, when the means of production are owned by the people as a whole, nobody has the prescience to foretell.

There are, however, certain questions dealing with the fundamentals of the socialist philosophy which the unbiased student has a right to put to the socialist and which the latter cannot in good faith ignore. Mr. Hillquit does not ignore them, and it is of interest to note his answers.

Perhaps the most important question of this kind is: what assurance have we that, under collective ownership of the means of production, the individual liberty which has been centuries in the making will not of necessity be placed in jeopardy? Mr. Hillquit's answer to this is, in the first place, that individual liberty in any real sense is a fiction,

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and secondly, that socialism would not curtail it, such as it is. The basic principle of every socialist community, he says, must be its democratic administration, and it is hardly likely that under such a system men "will fail to take ample care of their own individual freedom" (page 32). Since, as he believes, modern party politics is purely an outgrowth of capitalism and under socialism there can be no party politics, there will be no serious danger of political corruption (page 33). Whatever abuses "may develop in the administration of the state or the industries, can be only casual, based on inexperience or error of judgment of the community, or on personal incompetence, malice or ambition of the responsible officers . . . " (page 34). The reader will draw his own conclusion as to the adequacy of this answer.

Mr. Hillquit's answer to the criticism that socialism would destroy the individuality of man is that no system could be devised that would more effectually destroy individuality than does our present system. Equality in economic conditions, he argues, would tend to develop individuality rather than to destroy it, because there would then be no longer the slavish imitation by each class of the one next above in order to avoid the appearance of social inferiority.

Concerning incentive under socialism, Mr. Hillquit answers that civilization is the product of social growth and not of individual initiative. To the extent that individual initiative is of importance, there is no reason to fear that persons extraordinarily gifted would withhold from society the benefit of their talents, because considerations of wealth affect such persons very little even now. What each man really strives for, it is true, is success; but while success to the business man means money, to the priest, to the man of science and to the statesman it means even to-day something else (page 125). Even where the standard of pecuniary gain is the one applied to-day to measure success, socialism, he believes, will not destroy individual incentive but will simply substitute a more ideal standard.

As to distribution, Mr. Hillquit says that the socialist can offer no "cut and dried plan." "As a proposition of abstract justice," he sees "no reason why any discrimination at all should be made" (page 116). Of course, he says, some individuals are stronger and wiser than others, but, he adds, "what of that? Is there any moral ground for punishing the cripple, the invalid, the decrepit, the imbecile, the unfortunate step-children of nature, by reducing their rations of food and clothing?" No, he answers; "from each according to his ability and to each according to his needs"—this is the socialist ideal, even though it may never be fully realized in practice.

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In his economic doctrines Mr. Hillquit makes absolutely no advance upon Marx. The theory of "surplus value" and that of the subsistence wage are given in their original form (pages 156, 157). The advance that has been made in economic analysis since the time of the classical economists seems to have been overlooked by Mr. Hillquit. It is perhaps too much to expect that an active propagandist will, simply for the sake of sound theoretical analysis, surrender the theory of "surplus value" and thus spike the biggest gun in the socialist arsenal.

Part II, dealing with "Socialism and Reform," requires no extended comment. In it Mr. Hillquit treats of the various industrial, political and administrative reforms that have been initiated in modern society, with special reference to the attitude of the socialists toward them. In general Mr. Hillquit finds that all the ills with which modern society is afflicted—poverty, intemperance, vice, crime *etc.*—are symptoms of the deeper disease, capitalism. The success of particular reform movements would, he believes, bring as little relief as would the suppression of a single symptom in bodily disease. He believes that socialism alone can cure the real disease with which society is afflicted.

It would serve no useful purpose to attempt to criticize in detail Mr. Hillquit's philosophy or his doctrines. Many of the points involved have already been argued so completely on both sides, and with such a show of logic and authority, that there is little left for the opponents to do but to rest content in their respective convictions, each partisan, according to his temperament, commiserating the blindness or denouncing the obstinacy of his adversaries. One or two friendly general criticisms may, however, be ventured. In the first place, the reviewer believes that Mr. Hillquit, in common with many other modern socialists, pushes the doctrines of economic interpretation and class struggle to an unjustifiable extreme. Again, the book under review manifests a fault which is common to pretty nearly all "reform" literature: history and philosophy are unfailingly molded to conform to the preconceived ideal. Occasionally also there is a suggestion of inconsistency or an error of fact; as, for example when the British income tax is referred to impliedly as a lump-sum tax (page 289), which it distinctly is not—although under the new budget it may become one. Finally, it may be asked whether the assumption that all modern social legislation is primarily and principally due to the political activity of the socialists is not really another case of *post hoc propter hoc?* May it not be that the same conditions were responsible for both?

Mr. Hillquit's style is clear and forceful but plain and unadorned.

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Bits of sarcasm and irony occasionally brighten his pages, but there is rarely a suggestion of humor. It is a pity that socialists take themselves so seriously as to believe that humor is profanity. On the whole, however, for the American, Mr. Hillquit's book is the best presentation of the socialist point of view that has yet appeared.

EUGENE E. AGGER.

COLUMBIA UNIVERSITY.

Darwinism and Modern Socialism. By F. W. HEADLEY. London, Methuen and Company, 1909.—342 pp.

Even before we open the cover of Mr. Headley's book we are informed that its purpose is anti-socialistic, that it is "popularly written," and that it differs from other books of the same kind. The last assertion is true, in that the volume is well written and very readable. It cannot be said, however, that the author presents any original arguments, nor does he reveal a very profound knowledge of the literature of social evolution.

In the first chapter, "Societies Animal and Human," we are plunged at once into the argument about which the whole book turns. The struggle for existence is the universal phenomenon of the animate world and is essential to all progress; socialism aims to put a stop to the struggle for existence; *ergo*, socialism would stop all progress, and the race would degenerate. The socialist would of course criticize this argument ase mphasizing too strongly the struggle of man against man and group against group, rather than the struggle of man to overcome and control the forces of his environment, and would reply, further, that socialism would destroy only industrial competition, which is of questionable value in the development of character and of physical vitality.

The author then proceeds to sketch, in 120 pages, the evolution of the family, the passing of the village community—"semi-socialism"—and the growth of individualism from the time of the Black Death to the present. The next few chapters are devoted to a discussion of "Modern Social Problems," including chapters on "Natural Selection among Civilized Peoples," "Industrial Competition," "Trade Unions," "Business Capacity of Governments," "Saving and Interest," "National Debts," "Railway Finance," "Accumulation of Capital," "Great Trading Combinations," "The Land Question" and "The Capitalist Class and the Labor Class." The evils which may result from a *laissez faire* policy are freely recognized, and considerable state regulation is advocated; but governments are pronounced unfit for

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engaging in productive enterprises; they should never do more than regulate.

In the last 90 pages the author takes up the theories of Marx and of Webb and demonstrates that socialism is impossible, self-destructive and generally pernicious. In proof of his statements he offers the failures of Owen's "New Harmony," of the "National Workshops of 1848" and of the "Poplar Workhouse." The real arguments against socialism are fairly well stated, together with some that are unreal and some that are absurd.

Mr. Headley assures us in his preface that he does not expect to convert the "full-blown" socialist, nor is he very likely to do so; nevertheless, it will be well worth while for the socialist to spend an evening with *Darwinism and Modern Socialism*, if only to stimulate thought and to counteract the emotional attitude taken by so many socialist writers. The individualist will be delighted to find all his contentions fully confirmed.

GEORGE B. LOUIS ARNER.

DARTMOUTH COLLEGE.

The Government of the District of Columbia. By WALTER F. DODD. Washington, John Byrne and Company, 1909.—298 pp.

Dr. Dodd has written a book which may serve several purposes. For the citizens of the area treated, it affords a comprehensive reference book on the organization and operation of their government. For the federal legislators and executive officials to whom are entrusted the affairs of the national capital, it furnishes an important aid in their somewhat burdensome task. To the ordinary citizen in the country at large, it gives an opportunity to learn how the capital of the nation is governed. To the general student of politics, it presents, to quote from the title page, "a study in federal and municipal administration"; showing, on the one hand, the workings of a peculiar branch of the federal government and furnishing, on the other, a contribution to the fund of data on the difficult subject of city government. To cover so wide a field in a small volume is no easy task, and in some instances the intermixture of the popular and the scientific produces a rather incongruous effect; but, on the whole, there is little to criticize in this respect.

Although a study of Washington throws no light upon the municipal problems which arise in large industrial centers, Dr. Dodd has nevertheless selected a subject both interesting and important. With no popular representation in its government, with scarcely any influence

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of partisan politics, with some of its local affairs directly handled even in their details by the national government and with a governmental plan belonging in general to the much discussed commission system but yet in a class of its own, Washington's political conditions are so special, so peculiar to itself, as quite to justify extended attention. These peculiarities have made it the subject of much controversial discussion, particularly in the last few years, as a result of the increased attention paid to the government of the city by Presidents Roosevelt and Taft; yet the book is essentially not controversial. It is almost throughout an unbiased exposition of facts, and as such it has a special value which would not attach to the results of an investigation stimulated by a controversial motive. Nevertheless, if there is one general criticism to be made, it is on this head. The author has made his work rather too exclusively a collation of facts, keeping his own personal opinions too consistently in the background, except in the short concluding chapter. Any one who has made so extended and thorough an investigation might naturally be expected to have much valuable comment to add to the facts presented.

As a compilation of facts, however, the book is certainly well done. It is remarkably thorough and detailed. Facts from practically every source have been brought together within the single volume, thus saving subsequent investigators of the subject the most tedious part of their task. All the sources are authoritative and are indicated in numerous footnotes and in a comprehensive bibliographical summary. The information is also strictly up-to-date, including happenings as late as the close of the session of Congress in March, 1909.

The first three chapters are historical, giving an account of the establishment of the capital and of the various forms of government until the institution of the present system in 1878. The next following chapters explain the general features of the present government, the relations of the federal government, the board of commissioners and the finances. Eight chapters, forming nearly half of the book, detail the various municipal activities at considerable length and are of comparatively slight interest to the general reader; but the closing pages return to general topics. The account of the growth of citizens' associations, as a means of voicing the popular will in a government in which the ballot is altogether lacking, though brief, is of considerable interest. The same may be said of the concluding chapter on the relative merits of the present and of the various proposed systems of government.

GEORGE W. HODGKIN.

WASHINGTON, D. C.

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Le Parlement russe: Son organisation et ses rapports avec l'empereur. By PIERRE CHASLES. With a preface by ANATOLE LEROY-BEAULIEU. Paris, Arthur Rousseau, 1910.—xv, 218 pp.

The recent constitutional movement in Russia has been the subject of many books by foreign as well as by Russian writers. The studies by foreigners have so far given us the political side of the movement. Russians have made more strictly juridical analyses of the new institutions established as the result of this movement, but they have been too close to the political events to be free from the desire to support a party program. It is at best a difficult and delicate subject, but M. Chasles has succeeded in giving a most impartial judgment of positive results. He has had the assistance and direction of a teacher, rightly considered the first authority on Russia among European scholars. In the preface Professor Leroy-Beaulieu gives his latest statement of the situation in Russia.

As its title indicates, the work deals only with the legislative branch of the reorganized government, the parliament, in its organization and in its relations to the emperor. All other problems of constitutional law are excluded. Of the government, in the strict sense of the word, nothing is said; and in the description of the organization and functioning of the legislative institutions all details of technical procedure are omitted.

An *introduction historique* traces rapidly the history of early Russian institutions which, under different circumstances, might have developed into a modern parliament, and of the modern institutions, introduced in the nineteenth century, which operated to prepare for a parliament. To complete this historical background a brief outline of the course of events since 1904 is given.

The chapter on the composition of the Duma successfully disentangles the unusual and very complicated system of election. Professor Leroy-Beaulieu says it is the most intricate system of election known to constitutional law. In the examination of its provisions, the author notes the motives back of the framing of such a system and the aims revealed in its amendment on two occasions. M. Chasles' point of view is purely historical and juridical, but political situations are analyzed where they throw light on the law.

It is with regard to the author's statements of political situations only that any criticism of the book can be made; and since this criticism refers to the omission of considerations which the reviewer regards as important, it is fair to say that the author has been obliged by the

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nature of his subject to limit his political analyses, and it is reasonable to assume that some of his generalizations would have been qualified in a more extensive statement. The mistakes of the first Duma, for example, cannot be fairly stated without a more detailed study of the conditions out of which it emerged and under which it had to work. In speaking of the political experience of the members of this first Duma, mention might have been made of the fact that many of them had worked for years in local provincial councils. Again, in welcoming the conservative character of the present Duma, the author does not give due credit to its more radical predecessors for keeping a still more radical country in check, for starting the development of a real public opinion and for giving the representatives of the government their first lessons in the matter of listening to criticism.

Two chapters cover the composition of the Imperial Council, the upper house of the parliament, and the organization of the new institutions. The remaining chapters deal with the actual functioning of the parliament. The frequent conflicts over questions of jurisdiction are taken as basis for the analysis of the provisions of the law. Where the law has been frankly violated or unfairly interpreted by the emperor's advisers, the author conscientiously points it out.

The powers of the Duma are seen to be most limited; and even where they are clearly stated in the law, it appears that they are often contested and over-ridden. In the matter of budget control they are pronounced almost illusory. It should be noted, however, that though no positive control can be exercised, yet in many instances the moral influence of a wish expressed has been not without result. To take one example only out of many: in its debates on the estimates for the ministry of war the Duma "asked" that certain grand dukes should resign from important official positions. Within a few weeks one had handed in his resignation. Here again the purely juridical point of view fails to give us a complete picture of the situation in Russia. The same may be said of the control exercised by the Duma over the ministers. The right to interpellate ministers is granted, but, as is pointed out, a vote of lack of confidence has no result so long as ministerial responsibility of some kind is not introduced. But one must admit the importance of being able to demand at least an explanation from representatives of the government. It was in the answer to an interpellation that M. Stolypin had to admit that the supposed revolutionary leader Azev had been for years in the employ of the secret police.

In characterizing the present form of government the author accepts

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the term "pseudo-constitutional" used by Professor Max Weber. He also refers to a parliament "*en tutelle*." He notes the absence of any "constitutional sincerity on the part of the government" and speaks of the autocracy as "taking back with one hand what it has given up with the other." He properly attributes much of the "*intransigeance*" of the opposition to the attitude of "blind conservatism" on the part of the emperor's advisers.

The conclusions of the author are well summed up by the writer of the preface:

> The powers of the Russian parliament are, it is true, narrowly limited, at times even contested or violated with impunity. . . . Russia has, nevertheless, a parliament, consequently a constitutional régime. . . . The greater number of the Octobrists [the leading party of the third Duma, with a working majority] have shown that they are resolutely constitutionalists, . . . and M. Stolypin has constantly worked to defend the Duma and, with the Duma, the new constitutional régime. . . . Official Russia is gradually becoming accustomed to the constitutional régime. . . . This revolution, which has been proclaimed a failure, has given to Russia that which three or four generations of Russians have dreamed of in vain, a parliament. And with this parliament, however humble its rôle may seem still to be, however jealously its powers may be measured, Russia possesses both the living germ of all political evolution and the necessary instrument for all social reform.

SAMUEL N. HARPER.

COLUMBIA UNIVERSITY.

The People's Law: Or Popular Participation in Law-Making from Ancestral Folkmoot to Modern Referendum. A Study in the Evolution of Democracy and Direct Legislation. By CHARLES SUMNER LOBINGIER. With an Introduction by GEORGE ELLIOTT HOWARD. New York, The Macmillan Company, 1909.—xxi, 429 pp.

But for the qualifying sub-titles, the brief title of this bulky book would give a most mistaken idea of its contents. Both the qualities and the defects of the book are largely explained by the author's account of the successive stages of this investigation. In the preparation of a cyclopædia article on constitutional law, his interest was aroused in "the question of the validity of the then recently proclaimed southern constitutions, which had not been ratified by the people." This led him to make "a search for the origin of the practice of popular ratification, an inquiry concerning the extent to which it had become

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general, and an effort to determine from that source how far, if at all, that practice had ripened into law."

The proportionate amount of space devoted to the main topics deserves noting:

A. Genesis	pages 1–133
B. Popular constitution-making in the United States.	
I. Origin and development	137–300
II. Retrogression	301–325
III. Present status	326–348
C. Popular legislation in the United States. . . .	349–366
D. Popular participation in law-making outside of the United States	367–391

It is clear that origins and development, rather than present-day scope and effectiveness, are the matters of chief interest to the writer. The first two chapters, on "Primitive Popular Assemblies" and "Survivals of Popular Law-Making," contain quotations by the score from a wide range of authors, but fail to give convincing pictures of primitive folkmoots; and in many instances there is by no means clear evidence of "survival"—a term which is in danger of being somewhat overworked. But great interest does attach to the tracing of the doctrine of congregational assent and of the idea of the covenant, from the early manifestation in Calvin's régime at Geneva, through Knox and Melville and Cartwright, to Scotland and to old and New England. The study of popular ratification in colonial America is very detailed and presents varied illustrations of the people's assent in law-making. For the most familiar—the Mayflower Compact—the author follows the text of another instead of the easily accessible *facsimile*, with the unfortunate result that in the reprint of this brief document occur many inaccuracies, including not only variations in spelling and punctuation but even the omission of two words. In discussing popular ratification in connection with the "instruments of the revolutionary era," emphasis is laid upon Jefferson's earnest advocacy of the submission of the Virginia constitution to the people. The significant experiences and example of Massachusetts in the years 1777 to 1780 are well presented.

Six chapters are devoted to tracing the extension of popular ratification as applied to the constitutions in the states of different sections. Some of the groupings are peculiar: thus, Idaho and Washington are made to figure in the Louisiana purchase, while Oregon is presented among the states of the Mexican cession. Under "Retrogression"

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attention is directed mainly to the action of the Southern states which in recent years have enacted their constitutions without submitting them to popular approval. This—which, it will be remembered, was the inquiry which first aroused the writer's interest—constitutes one of the most systematic and valuable portions of the book. The preliminary discussions of the project to "enact" the constitutions, the debates in the conventions and the subsequent testing of the validity of the process by the courts are well presented. To the "Present Status" only thirteen pages are allotted. The chapter-heading, "Some Law as to Popular Ratification," is in itself suggestive of a hasty and incomplete discussion. Certain it is that many of the points here set forth and divers others have been more comprehensively presented in the admirable articles by Professor J. Q. Dealey, on "General Tendencies in State Constitutions," and Professor J. W. Garner, on "The Amendment of State Constitutions," which appeared in the second number of the *American Political Science Review*—articles which strangely find no place in the writer's bibliography, although this contains at least four hundred titles.

To popular legislation in the United States, aside from constitution-making, only eighteen pages are accorded; and but twenty-eight pages are reserved for the discussion of direct legislation outside of the United States. Yet these are topics of vital concern, which one would expect to find comprehensively treated in a work on *The People's Law*.

Judge Lobingier's book represents the gathering of material from a wide field. At a rough estimate, a fourth of its space is devoted to quotations and to excerpts, while a fourth of the remainder is occupied by footnotes, mostly in citation of authorities. There is here material of great value, but little skill has been shown in matters of proportion and of orderly presentation. The author essays the task of dealing with popular legislation in five continents. The reader will find it hard to accept his scale of relative values—to understand why, for example, a separate chapter (though of but two pages) should be devoted to Delaware's "retrogression" in enacting her constitution of 1887 and another chapter to "some approach to the idea of popular ratification [which] seems to have found its lodgment in a few of the Latin-American states," while the discussion of the modern Swiss initiative and referendum (familiar though they may be) is confined to a ten-line summary in a paragraph preliminary to an account of the political influence of John Calvin.

GEORGE H. HAYNES.

WORCESTER POLYTECHNIC INSTITUTE.

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Studien zur Erläuterung des bürgerlichen Rechts. Edited by RUDOLF LEONHARD. Numbers 1–31. Breslau, H. and M. Markus, 1900–1909.

When the Civil Code of the German Empire went into force in the closing year of the nineteenth century, it marked a turning-point not only in German legal history but also in German legal science. The nineteenth century had been in Germany a period of almost unexampled activity in the scientific study of law. This activity was concentrated at first on historical research, then on dogmatic construction and finally on the solution of practical problems from the point of view of social expediency. At no time, however, did any one of these tendencies exclude the others, and if the last mentioned became dominant in the later decades of the century it was because the work of creating common commercial and penal law, a common system of procedure and, finally, a common civil law necessarily forced practical considerations to the front. In the elaboration of the Civil Code, in particular, the entire legal profession—judges, advocates and university instructors—took a more or less active part. Never was a law book drafted more systematically or more deliberately; yet never before was a draft law book subjected to so general discussion and criticism, nor ever before was so great a mass of expert criticism so conscientiously weighed and so largely utilized. When the code was adopted, the legal profession had seen all that it had made, and had said, with relatively few dissenting voices, that it was very good. It was perceived, however, that the new civil law was in many respects a novel blend of Roman, German and modern European sentiments and ideas, institutions and rules, and that the profession was confronted with the duty of so mastering and interpreting the new law, not in its letter alone but in its spirit, that it might be set working with the least possible friction and the best possible results.

It was at this juncture that Rudolf Leonhard—whom so many Americans have since learned to know and to esteem as Kaiser Wilhelm exchange professor at Columbia University and academic envoy to the United States at large in 1907–08—then and now professor of law at Breslau University, conceived the happy idea of establishing a special medium for this new and necessary work of the German legal profession in his *Civil Law Studies*. This series has now completed its first decade; and it seems a fitting moment, not to report upon all its issues, which would require far more space than can be accorded in a single review, nor to enumerate their titles, which would be uninteresting,

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but to indicate how the series has developed, what sort of topics have been discussed, what methods seem to prevail, and to what extent these studies claim the attention of persons not especially interested in the details of modern German law.

This series is conducted on the time-honored principle—which in science, at least, seems to hold its own—of complete *laisser faire*. The thirty-one numbers thus far published have appeared at irregular intervals; no year, indeed, has passed without a number, but in 1905 there was but one and in 1907 there were six. With one exception, the single numbers are monographs or parts of monographs; they have ranged in bulk from 38 to 404 pages. Nearly all aim to elucidate portions of the existing civil law of Germany, but few limit themselves to direct exegesis of the legislative texts; and the series has given shelter to several substantial essays that have little or nothing to do with modern German law. In so far as the topics treated are assignable to any special portion of the private law, eight monographs are in the field of contractual or quasi-contractual relations, the same number deal with property, four with torts, two with corporations, one with the marriage relation and one (this purely historical) with succession *mortis causa*. To a considerable extent, this distribution seems to correspond to the relative importance of these branches of the law, but it is partly explicable on a different ground. Moot points beget monographs, and in the world of law moot points indicate more or less unsatisfactory conditions. The slight attention paid to corporation law, for example, as compared with the great attention at present devoted to it in the United States, suggests that in Germany the law on this subject is more satisfactory than it is here.

In the treatment of the various themes the historical method predominates, and the approach to the existing law frequently begins with a more or less exhaustive presentation of the Roman principles and rules. To students of Roman law, therefore, many of these monographs are of distinct interest and value. Number 10, by Richard Maschke (1903; 103 pp.), is pure Roman law: it deals with the rights of the person as protected by the Roman law of *iniuriae*. Number 6, by Fritz Klingmüller (1901; 117 pp.), and number 7, by Rudolf Freund (1902; 68 pp.), have to do with the Roman conception of *causa*. Number 13, by E. F. Bruck (1904; 180 pp.), shows what legal acts resist the introduction of conditions. Number 15, by Alfred Thal (1905; 186 pp.), discusses the *pignus nominis*. Number 30, by Ernst Heilborn (1909; 130 pp.), treats of accession. This list is illustrative, not exhaustive. Purely historical

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are number 25, by Ernst von Moeller (1907; 145 pp.), which describes Andrea Alciati (1492–1550) as the founder of the humanistic school in the jurisprudence of the sixteenth century, and number 31, by E. F. Bruck (1909; 162 pp.), which examines gifts *mortis causa* in Greek law. This last number is the first instalment of a study of *mortis causa* gifts in Greek and Roman law: it stops for the present at the beginning of the Hellenistic epoch. Number 17, entitled "Utterances from Abroad regarding the Future of Legal Science" (1906; 112 pp.), stands by itself: it is not a monograph, but a collection of articles or notes by jurists of various countries on the modern study of Roman law; and it contains also a very interesting report by Professor Leonhard on the celebration of the centenary of the Code Napoléon and on the movement for the revision of that code.

The purely exegetic method is, as I have already noted, little used; but the dogmatic method, in spite of Jhering's crusade, is coming to its own again. Several of the monographs are devoted to new analyses of legal institutions, in order to obtain, by subsequent synthesis, more accurate general concepts. All of these are more or less stimulating; they at least give the legal mind a sort of "Swedish movement" treatment; few seem to the reviewer to tend to any very useful practical results.

Many of these monographs are distinct contributions to legal science. Not because it is intrinsically better than the others, but because its subject is important and has been singularly neglected, attention should be called to number 18, by Heinrich Wolfgang, on "Inducement to Breach of Contract" (1906; 133 pp.). This essay deals with the question how far such inducement makes the inducer liable for damages. An English lawyer would be tempted to call it a study of "trespass on the field of contract." To a considerable degree all such inquiries have been barred, both in European continental law and in English law, by the unwarranted assumption that the right *in personam* has no incidence beyond the person who owes the correlative duty, or, in other words, that there is no general duty of third persons to abstain from interfering with the relation between an obligor and an obligee.

Finally, the attention of all who are interested in general jurisprudence should be called to the fact that Professor Leonhard's well-known work on *Mistake in Contracts*, originally published in 1883, appears in revised form as numbers 22 and 23 (1907; 283, 191 pp.) of the *Civil Law Studies*.

MUNROE SMITH.

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Pacific Blockade. By ALBERT E. HOGAN. Oxford, Clarendon Press, 1908.—183 pp.

An admirable feature of this study is the account, given in Part II, of the twenty instances of pacific blockade which have occurred since its first employment in 1827. With painstaking care, the author has drawn from the original sources the fundamental facts of each instance, so far as these are ascertainable. Thus the concrete—that which gives value to the "case" study of law—is furnished in a legal field that is far removed from the court room, and the student is provided with the data by which he may reach abstractions independent of the author.

The problems of pacific blockade, from the point of view of its relation to acknowledged principles, are succinctly stated by the author as follows:

> It has first to be determined whether there can be such an operation as a pacific blockade at all, or whether the term is but a misnomer and a cloak for an illegal form of coercion. Next, supposing it to be decided that a pacific blockade is legally possible, the method of conducting it must be considered; whether the blockading force need be "effective," and whether a blockade must extend to all kinds of merchandise or may be confined to particular varieties. Further, there is the extremely important question whether the blockade may or may not extend to the ships of third powers, and, if so, under what conditions; and connected with this is the further question as to what may be done with the vessels seized. May they be confiscated or merely detained, and, if the latter, is the captor responsible for any damage caused by the detention? [page 15]

The author points out that pacific blockade "can be conducted without any interference whatever with the vessels belonging to third states," and that therefore its legality, as a practice, does not depend on the question of the treatment to be accorded to the vessels of third states. The fact that it has "only been directed against comparatively weak states" does not arise from its "essential nature." It may be used against a powerful state, and "the fact that it is highly probable that war would follow is really immaterial." The circumstance that small states, "relying upon their very weakness" and on the jealousy of powerful states to protect them, "defiantly refuse" to conform to the "ordinary usages of international law," has produced the necessity of "some other method of compulsion" than war. "It is here that the practice of pacific blockade has proved so useful," because "its effects are much less damaging to the citizens of the blockaded state

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than a war." Likewise the citizens of the blockading power and the great body of third states are relieved from the far-reaching effects of a condition of war. These are the advantages of the practice. The great disadvantages are its tendency "to blur that clear line of demarcation which for the general good of the body of states should be drawn between peace and war" and its possible use by an unscrupulous power to oppress a weaker. The latter danger is not discussed by the author, and by objecting to the classification of pacific blockades "according to the motives inducing them," he excludes from his treatment of the subject any consideration of this danger, which is, undoubtedly, so essentially political as not to come within the scope of a juristic study.

Mr. Hogan sets forth and criticizes the views of the writers who have touched upon the subject of pacific blockade, but his own especial contribution is the discussion of the problems of principle and rule in the light of actual practice. In each instance he most carefully indicates the quantity of evidence which he has been able to discover as well as its quality.

He concludes his legal study (Part I) by stating nine propositions which he believes to "represent the present rules of international law on the subject," cautiously adding, "but it cannot be said that anything like a final settlement has yet been reached." At present, he says, "it is policy and not law which guides third states in their attitude towards a pacific blockade." Although "in nearly all of the pacific blockades of the past" the vessels of third states have been interfered with, and there have been "very few protests against such interference," the author believes that there would be no hesitation to protest if a future blockade should be held to be detrimental to their interests. Mr. Hogan omits to mention whether, and to what extent, blockading states have compensated the subjects of third states for damages to cargoes and ships resulting from detention or other interference. It would seem that third states might reasonably insist upon such compensation if the blockade were conducted solely in the interest of the blockading power.

The work is well written and represents much real research and intelligent legal thought. The reviewer has noticed only one serious slip: Calvo, the late distinguished Argentine minister to Paris, is called "a French jurist." There are many topics of international practice which might well be examined and set forth in the fashion of this exemplary monograph.

G. W. Scott.

Columbia University.

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BOOK NOTES

The name of Léon Vanderkindere, professor at the Université Libre de Bruxelles, was not widely known outside of Belgium, yet the memorial volume which a group of his friends have prepared by drawing from his works a *Choix d'études historiques* (Brussels, Weissenbruch, 1909; xii, 389 pp.) reveals a historian and mediævalist of attractive personality and keenly scientific method. The volume contains a suggestive address on the scientific method in history, an investigation of the condition of women among the Merovingian Franks, a survey of feudalism and a series of local studies in the history of Belgian communes. It was in this last field that M. Vanderkindere had especially distinguished himself. This monument to his memory bears the mark of that standard by which he himself judged scientific effort—utility.

Professor John Davidson, of the University of New Brunswick, had long planned a work on the Scottish staple and had collected not a little material. After his death, Mr. Alexander Gray utilized his notes and completed the necessary researches, both in Scotland and in the Netherlands. The results have now been published in an imposing volume entitled *The Scottish Staple at Veere: A Study of the Economic History of Scotland*, by John Davidson and Alexander Gray (London, Longmans Green and Company, 1909; 453 pp.). It consists of three parts: a general introduction, a history of the staple and the organization of the staple. As the authors point out very clearly, the Scottish staple must not be confounded with its English namesake. The English staple was primarily a fiscal device and was concerned almost exclusively with the wool trade. The Scottish staple was an institution of the Convention of Royal Burghs and was more akin, in some respects, to the English merchant adventurers than to the English staple. It differed, however, from the merchant adventurers in that it served also in some respects as an administrative organ of the Scottish government. Finally, whereas the importance of the English staple is found primarily in the earlier centuries, the Scottish staple at Veere or Campvere flourished from the sixteenth century to the end of the eighteenth. The book, which is at once scholarly and interesting, is a fresh and instructive contribution to the entire economic and commercial history of Scotland.

The distinguishing characteristic of *Outlines of the Economic History*

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of England: A Study in Social Development, by H. O. Meredith, lecturer at Manchester University (London, Pitman & Sons, 1909; 355 pp.), is the emphasis that is laid upon the general survey of each period. In so condensed a presentation of a very large subject the author had, of course, no opportunity to utilize any original researches of his own; but he has made good use of recent contributions by other writers, such as Sombart's discussion of the genesis of capitalism and Steffen's history of the English laborer. To the reader who desires a concise but comprehensive treatment of English economic history, Mr. Meredith's book may be recommended as one of the best manuals on the subject.

The latest addition to the historical manuals known as the Cambridge Historical Series, edited by G. W. Prothero, is a volume by Mrs. H. M. Vernon, entitled *Italy from 1494 to 1790* (Cambridge University Press, 1909; viii, 516 pp.). The volume resembles others in the series in the compactness of its arrangement and the inclusiveness of its scope, but it shares the fault of several of them, a lack of discrimination in the assortment of material. Anything that happened is told simply because it happened; or rather it is not told but referred to. This is the weakness of the book. Many events are touched upon so slightly that only one familiar with the history of the country and the period realizes their importance, and that particular kind of reader is not likely to turn often to so hurried a narrative. The writer of manuals ought never to refer to things in passing unless he has time to develop his point. He ought to learn first of all to omit from his survey all but the most important things, in order to gain something approaching a perspective. This book shows little skill in either of these essentials. It lacks insight and inspiration. A bibliography (with notably few German titles), an index and three maps furnish a slight compensation for defects in the narrative.

Sir Horace Rumbold was British ambassador to Austria; but new material, or even novel interpretation of old, is wholly absent from his *Francis Joseph and His Times* (New York, D. Appleton and Company, 1909; 405 pp.). The book cannot be taken seriously as an independent piece of historical writing; at best it is only "diplomatic recollections." Sir Horace retains the point of view of the man whose active years were spent at courts and in diplomatic circles. He has a weakness for royalty and solemn processions of state carriages. A third of the book is devoted to what seems to the author to be the necessary background, but is, in reality, a pleasantly selected series of anecdotes about the careers and personalities of Francis Joseph's Hapsburg ancestors, from the redoubtable Maria Theresa down to the

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amiable but stupid Ferdinand. The importance of this rather disproportionate introduction is not clear. The account of the reign of Francis Joseph, though also copiously interspersed with irrelevancies, is more nearly historical, perhaps because it rests almost wholly upon the admirable works of Heinrich Friedjung. In his devotion to the imperial subject of his book, the writer omits to treat adequately the deeper and larger factors in the long and eventful period that Francis Joseph has lived through—the period in which the countries and peoples under his care have been transformed by external and internal catastrophes and revolutions from subjects of mediæval autocracy into members of a constitutional commonwealth, unruly and mutually jealous, it is true, but free at least from Metternichian bondage and repression. In the Francis Joseph of Sir Horace Rumbold, all is commendable. Where others would criticize and censure, Sir Horace keeps his peace. In his views on European politics, he is pro-Austrian, or, where he cannot be that, at least British. A good example of his attitude is the passage at the end of the book where, in speaking of the Triple Alliance, he decries "the baneful bond between Vienna and Berlin." His confidence in the efficacy of the alliance is very strong, and he largely blames England for making it possible.

The volume of *Joseph Cowen's Speeches* recently edited by his daughter (London, Longmans Green and Company, 1909; 349 pp.) includes the publicist's utterances on the foreign and imperial policy of England, covering the years from 1876 to 1897, with special reference to the near Eastern question, Egypt, Ireland and South Africa. Some of the papers are reprinted from Major Jones's *Life and Speeches of Joseph Cowen* and others from Mr. Andrew Reid's *Election Speeches*. Joseph Cowen made a long study of the Eastern question; he understood and sympathized with the aspirations of the Turkish reformers, the forerunners of the "Young Turks"; and his opposition to Russian aggression was based on his belief that a real political nation would develop in the Ottoman Empire. What he said of the reform movement in Turkey thirty years ago reads as if it were spoken today. His attitude on the question of home rule for Ireland was remarkably liberal; and of the idea of imperial federation he was a determined and early advocate. Miss Cowen promises us in future a biography of her father and a complete edition of his speeches.

The casual and undiscriminating American visitors to England who know little history but dearly love a lord—unfortunately a large class—will have their opinions confirmed and their predilection strengthened by a perusal of Price Collier's essays on *England and the English*

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from an American Point of View (New York, Charles Scribner's Sons, 1909; 434 pp.) Commonplace and uncritical generalities constitute in the main the sections on "The Land of Compromise," "English Home Life," "Are the English Dull?" "Sport" and "Society." In "Who are the English?" we learn that the Saxons are a pure and noble race with a genius for government so persistently inherent that they have chosen to be governed throughout the ages by a comparatively small group of privileged persons. The House of Lords is "the most democratic institution in England" and "an assembly whose opinion is as nearly as possible the opinion of a consensus of the competent." This and many other statements of Mr. Collier will surprise those who have closely followed recent events in British politics. At all times, he is extravagantly conservative. "Under the flimsy academic disguise of socialism, sops of sentiment are more common than they were. Trade unions, workhouses, free schooling, old-age pensions, shorter hours of work, endless public and private charities, have inadvertently set up a standard of sloth which must prove disastrous to the former and better traditions of the race" (page 172). There are occasional thoughtful suggestions in the essays on "Ireland" and on "An English Country Town."

A Colonial Autocracy, by Marion Phillips (London, P. S. King and Son, 1909; xx, 336 pp.), is a study, based on original sources, of the early years of the colonial government of New South Wales and is devoted in large part to the governorship of Macquarie. Perhaps nowhere can one obtain a better idea of the development of New South Wales from a small penal settlement, dependent even for its food supply upon the mother country, into a prosperous settlement colony. The book is a dissertation for the doctor's degree and is interesting as showing the character of the work done in the University of London.

The fourth volume of Mr. Richard Waddington's exhaustive history of the Seven Years War, *La Guerre de sept ans, histoire diplomatique et militaire*, tome iv: *Torgau—Pacte de Famille* (Paris, Firmin-Didot et Compagnie, 1908; viii, 637 pp.), deals with the military events of 1760 and the beginning of 1761. It relates to the events of the glorious death-struggle of the French for dominion in Canada, the unsuccessful efforts of Choiseul to bring about a peace and the long negotiations which led to the conclusion of the Family Compact. Like the preceding volumes, it is remarkable for the range and variety of the original material consulted. Extensive and minute use has been made not only of the national archives in Paris but also of those in London,

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Paris, the Hague, Berlin and Vienna. The work throws new and interesting light on the mismanagement of French affairs in 1760 and on the lack of harmony, amounting to open hostility, between the aged minister of war, Belleisle, and the commander de Broglie on the Rhine (*cf.* the extracts from the de Broglie correspondence, page 158). It is to be regretted that in a work which has already secured for itself an authoritative position, the archives at St. Petersburg have not been used, since the Russians were particularly active during this period of the war. Still, this might have encumbered the history with archival material to the point of congestion; for, even as it stands, one frequently feels that the material has not been sufficiently worked over and assimilated. Parts of the narrative are unfinished and in striking contrast with the clear-cut and vigorous style of the rest. Two maps, one of Silesia, the other of Hesse, and six plans of battles, the latter reproduced from manuscripts found in the archives of the war office at Paris, are appended to the volume. As original documents they are excellent, but in several instances a key would be appreciated, even by the student of military history.

Volume XVIII of the *Collections of the State Historical Society of Wisconsin* (Madison, 1908; 557 pp.), edited by Reuben Gold Thwaites, concludes the chronological presentation of contemporary documents, begun in Volume XVI, and bearing upon the French régime in the region of the upper Great Lakes prior to 1760. To this series are added a number of documents illustrative of the British régime from 1761 to 1800 and a register of marriages in the parish of Michilimackinac from 1725 to 1821. The elaborate preface, notes and index, together with the care observed in the translation of the French and Spanish materials, fully maintain the standard of scholarship which has made the publications of the society so welcome to students of American history.

From the Wisconsin History Commission come two thin volumes that form the first two numbers of a series on Wisconsin's part in the War of Secession. Number one is *A View of the Vicksburg Campaign* (1908; xii, 104 pp.) by W. F. Vilas; number two is a tale of *Capture and Escape* (1908; xvi, 201 pp.) by J. A. Kellogg. Kellogg's narrative is interesting, but not important; Vilas's is not even interesting.

During the battle of Gettysburg, Frank Aretas Haskell, a first lieutenant in the Sixth Wisconsin Infantry, was serving as an aide-de-camp to General Gibbon. His recollections of the battle were set down in the form of a letter to his brother. Parts of this letter were printed

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more than ten years ago in the records of the class of 1854 of Dartmouth College; the whole is now published by the Wisconsin History Commission, under the title: *The Battle of Gettysburg* (1908; xxiii, 185 pp.) The document is of unquestionable value as a record of the impressions of an eye-witness; incidentally, however, it illustrates the untrustworthiness of such evidence. Mr. Haskell tells us, for example, that after the death of General Reynolds the first corps was commanded by General Newton—ignoring the fact that during the greater part of the first day's battle it was skilfully and efficiently commanded by General Doubleday. Again, in describing the much-debated action of General Sickles in moving his corps to the Peach Orchard, Mr. Haskell shows ignorance of the contour of the battle-field: he pictures the Confederates as "sweeping down" what was in the main a rising grade. His narrative is colored, moreover, by prejudice. He shows throughout a strong dislike of General Sickles. He casts undeserved aspersions upon the courage of the men of other corps. In endeavoring to hold an untenable position for the protection of the first corps, the portions of the eleventh corps commanded by Generals Barlow and Schurz lost 1821 men; Mr. Haskell describes them as making "but feeble opposition to the enemy" and seeking "to hide like rabbits." In meeting Pickett's assault General Webb's Philadelphia brigade, 1137 strong, lost 388 men in twenty minutes; Mr. Haskell pictures them as "falling back, a fear-stricken flock of confusion." This spectacle inspired him with "a great, magnificent passion"; he checked the flight of Webb's "rabbits" like a "destroying angel." At the same time he reassured General Meade, who came to the Angle, his face "very white, not pale"; and General Meade said to Lieutenant Haskell: "I will give my orders to you, and you will see them executed." General Hancock's official report (recently cited in *The Nation*, November 18, 1909, page 483) shows that Lieutenant Haskell rendered gallant service. It is a pity that the recognition of this gallantry by the hero himself was so explicit.

In the Self-Reconstruction of Maryland, 1864–67 (Baltimore, the Johns Hopkins Press, 1909; 131 pp.), Dr. William Starr Myers completes a study that he began some years ago in a like monograph on the Maryland constitution of 1864. One more is thus added to the list of Southern states whose political experience during the momentous years following the Civil War has been studied in illuminating detail. Dr. Myers's work is among the very best of the group. Maryland's position was entirely unique, owing to her relation to the capital; and her problems and their solution presented, therefore, particularly interesting features, which Dr. Myers has made very clear.

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The University of Nebraska, through its department of political science and sociology, has published a pamphlet by George Elliott Howard, entitled *Biography of American Statesmanship* (1909; 75 pp.). The work is a syllabus, with references, of a very useful course given in the university, treating of prominent American statesmen, including, oddly enough, Robert E. Lee. The chief utility of the pamphlet is to prove, what many people already know, that Professor Howard is a great teacher.

The Romance of American Expansion, by H. Addington Bruce (New York, Moffat, Yard and Company, 1909; xiii, 246 pp.), embodies a series of short snappy sketches of the men and episodes most famous in the territorial growth of the United States. It is no easy task to catch and truthfully to present the spirit of men so diverse in type as Daniel Boone, Thomas Hart Benton and William McKinley; but Mr. Bruce has done this with a considerable degree of success. He has moreover kept well within the bounds of historic truth in his narratives, despite the contrary suggestion of the title. At the end of the volume he includes in a "bibliography" the sources from which his stories may be verified and supplemented.

A recent contribution to the series known as "Stories from American History" is *The Story of the Great Lakes* (New York, The Macmillan Company, 1909; 398 pp.) by Edward Channing and Marion Florence Lansing. "The picturesqueness of the early life, the courage and hardihood of the explorers and settlers, and the tale of thrilling adventures and noble deeds," along with "the achievements of the builders of cities and captains and soldiers of industry of our own day," as here set forth, are doubtless intended for juvenile perusal. In its form of a convenient grouping of episodes and statistics about a given area the work has considerable utility. On the other hand, the semi-scholastic, semi-journalistic style of composition seems to make the book rather mature for the juvenile and rather juvenile for the mature.

Mr. James M. Swank, secretary of the American Iron and Steel Association since 1872, issues what he tells us is his final contribution to industrial history in *Progressive Pennsylvania: A Record of the remarkable Industrial Development of the Keystone State* (Philadelphia, Lippincott, 1909; 360 pp.) As in all his earlier books, especially on the iron industry, Mr. Swank gives an interesting running narrative, without any detailed references to authorities. Although the work is primarily intended as a popular presentation of the subject, it contains not a little original material. The greater part of the book is devoted to the history of early transportation and of the iron manufacture; the

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last third contains sketches of some distinguished Pennsylvanians, beginning with Dr. Muhlenberg and ending with Senator Quay. The volume is well printed and contains both a general and a personal index.

India: Its Life and Thought, by John P. Jones (New York, The Macmillan Company, 1908; xvii, 448 pp.), is an excellent specimen of a book written for the general public. It is fair, on the whole sympathetic, and the outcome of years of observation. It is well printed and illustrated. It contains nothing of special interest for the student.

India and the Empire, by M. de P. Webb, C. I. E. (London, Longmans Green and Company, 1908; xxiv, 193 pp.) is, as its subtitle indicates, a consideration of the tariff problem, particularly from the view-point of India. It is a plea for the establishment of a tariff which shall have due regard for the peculiar conditions of Indian life, and is thus one of the many books now appearing in Great Britain which are urging the Empire to adopt some measure of protection to home industry in its tax system. The arguments advanced to support the theory of protection for India, while clearly stated, can not be said to be remarkable for their novelty.

La Transformación del Japon (Madrid, Imprenta del Asilo de Huérfanos del S. C. de Jesus, 1909; 224 pp.), by Manuel Sales y Ferre, presents in a concise and readable form the chief elements concerned in the approximation of Japan to the European type of civilization. Preceding his study with a well-chosen bibliography, the author describes the structure upon which the present Japanese polity is superimposed. He then explains how readily the borrowed institutions fitted into preëxistent conditions, and how slight as yet has been the extent to which occidentalism has altered the character and customs of the Japanese people. The appendices contain a number of historical documents and a translation of the Japanese constitution.

In proportion as the South American republics are coming to their own, they are seeking to spread a knowledge of their resources and importance. Brazil, for instance, has inaugurated a governmental "commission of propaganda and economic expansion," with its main office in Paris; and under its auspices there has appeared an interesting booklet, in English, by J. C. Oakenful, entitled *Brazil in 1909* (Paris, 1909; 237 pp.). This is a clear and well-written account of the vast empire, dealing successively with its geography, ethnography, history, area, population and geology, but devoting, as was to be expected, especial attention to agriculture, finance and commerce. The

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chapter on science, art and literature is rather slight. The publication is well calculated to afford a good survey of the resources of this magnificent empire. Among the numerous French publications, some of which appear under the imprint of other publishers, are especially to be noted *Le Brésil: ses richesses naturelles, ses industries* (Paris, Aillaud et Compagnie, 1909; 404 pp.); *Le Brésil: sa vie, son travail, son avenir*, by Manuel Bernardez (Buenos Aires 1908, 233 pp.); and *Au Pays de l' or noir: Para, Amazonas Matto Grosso*, by Paul Walle (Paris, E. Guilmoto, 1909; 244 pp.). The first of these contains elaborate maps and charts, and all three works are illustrated.

It is a fact not conducive to Anglo-American self-satisfaction that, while there exists in English no single adequate history of economics, France should produce every few years a new book on this subject. The French productivity in this field is probably due to the fact that in almost every French university there is a chair of the history of economic thought, although, as our authors tell us in the preface, there is not yet a single chair of the history of economic institutions. Professors Charles Gide of Paris and Charles Rist of Montpellier have deemed the time opportune for a new history, which they have published under the title *Histoire des doctrines économiques depuis les physiocrates jusqu'à nos jours* (Paris, Larose et Tenin, 1909; 710 pp.). The preface and the conclusion are the joint work of the two authors, while each is responsible for about one-half of the five books and eighteen chapters into which the volume is divided. The five books are entitled: "The Founders," including the "pessimists" Malthus and Ricardo; "The Adversaries," including Sismondi, List and the early socialists; "The Liberals"; "The Dissenters"; and "Recent Doctrines." In each chapter one or two representative figures are selected and are treated with as much fulness as space permits. As is to be expected from the reputation of the authors, the work is excellent, so far as it goes; but the very plan of the work lays it open to several criticisms. In the first place it omits all the seventeenth-century writers and all those of the eighteenth century prior to the physiocrats and Adam Smith; second, it pays no attention to the minor writers, many of whom are of considerable importance in the history of economic thought; third, it lays undue stress upon the French contributions; fourth, the recent doctrines are certainly not exhausted, or even adequately treated, by mentioning simply the "hedonists," the extension of the rent theories, the "solidarists" and the anarchists. For the purposes of the French students, however, for whom it is primarily intended, the book will no doubt be found useful.

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A new edition of John Stuart Mill's *Principles of Political Economy* has recently appeared in one volume, under the editorship of Professor Ashley of Birmingham (London and New York, Longmans Green and Company, 1909; liii, 1013 pp.). The editor's introduction, of some twenty-five pages, gives an interesting account of Mill's development and of Mill's own valuation of the purposes and results of his work. A bibliographical appendix of almost the same length, arranged by topics, enables the student to bring his reading down to date. The new edition is handy and will be found useful.

The translation of the third volume of Karl Marx's *Capital*, which has been made by Mr. Ernest Untermann, has just appeared with the sub-title *The Process of Capitalist Production as a Whole* (Chicago, Charles H. Kerr and Company, 1909; 1048 pp.). As in the case of the second volume, this is the first English rendering of the work and, notwithstanding occasional infelicities in the translation, all students of socialism will be grateful to Mr. Untermann. It is in this volume that Marx gives the details of his most interesting distinction between industrial capital, or capital proper, and commercial capital, or merchants' capital, and emphasizes what he considers to be the evolution of rent into capitalist ground rent and the transformation of surplus profits into land rent. In view of the great change that has come in the last fifteen years in the attitude of socialists themselves as regards Marxian orthodoxy, it is a little amusing to read the enthusiastic preface to the work which was written by Engels in 1894. With the publication of this volume the whole of *Capital* has become accessible in English.

Professor Vilfredo Pareto's well known manual of economics has recently been made available to a wider public through the French translation of M. Alfred Bonnet, under the title of *Manuel d'économie politique* (Paris, G. R. Brière, 1909; 695 pp.). It forms a part of the International Library of Economics. In this work the admirers of Pareto will find him at his best. After some preliminary chapters on general principles, the body of the book is devoted to a study of what he calls the economic equilibrium, based upon the application of marginal measurements. Professor Pareto still clings to the use of the word "ophelimity" which he coined to describe marginal utility, although it has failed to become current and has, indeed, been received with little favor. The book is replete with interesting diagrams, which help to clarify the discussion, while the elaborate mathematical formulæ are relegated to a long appendix of more than 130 pages. The translation is marred by the repeated misprint of English names, *e. g.*,

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"Edgervorth," "Irwing Fisher" and "Roosewelt." The book is one to be reckoned with by all students of pure theory.

The studies on Quesnay, Gournay and Dupont de Nemours previously given to the world by G. Schelle are now followed by a companion volume on the greatest of the physiocrats, entitled *Turgot* (Paris, Félix Alcan, 1909; 267 pp.) So much has been written on Turgot of recent years that M. Schelle has thought it wise to incorporate the results of the newer information in a little volume which deals with the life and the labors of the famous statesman. The book, which is exceedingly readable, is important chiefly for its personal touches and for its discussions of the relations of Turgot to the other physiocrats. Allusions to non-Gallic matters are not to be taken too seriously; for instance, the reference to Colonel Dupont as "senator of the United States," or the statement that Turgot exerted no influence upon Adam Smith. As a contribution to economics M. Schelle's little volume can scarcely be compared to that of Léon Say: but as an engaging historical sketch it has distinct merits.

The publishing house of Paul Geuthner, in Paris, has initiated, under the editorship of Prof. Dubois, of Poitiers, a reprint of the most important works of the eighteenth-century French economists, under the title, *Collection des économistes et des reformateurs sociaux de la France*. The whole collection is expected to include about fifty volumes. The three that have already appeared are the works of the physiocrats Beaudeau, Dupont de Nemours and Le Mercier de la Rivière. Of these the first two are edited by Professor Dubois and the last by Professor Depitre, of the University of Lille. To judge from these early instalments, the new set bids fair to excell Custodi's famous collection of Italian classic economists, which was published over a century ago.

Messrs. Teubner, in Leipzig, have brought out a German edition of the lectures which Professor Laughlin delivered in Germany two or three years ago, under the title, *Aus dem amerikanischen Wirtschaftsleben*. The American edition was noted in an earlier issue of this QUARTERLY (volume xxii, page 572).

Mr. Hosea Ballou Morse, sometime statistical secretary of the Inspectorate General of Customs in China and author of the well-known work on the trade and administration of the Chinese Empire, has thrown light on an interesting phase of trade organization in his monograph entitled *The Gilds of China, with an account of the Gild Merchant or Co-Hong of Canton* (London, Longmans Green and Company, 1909; 92 pp.). Much of the material in this monograph is to be found in the paper on

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"Chinese Gilds," which was published by an American, Dr. MacGowan, in 1889. Mr. Morse, however, has not only supplemented the information given by Dr. MacGowan but has treated the subject from a new point of view, contrasting the mediæval gilds in Europe with their present-day successors in China. Not only does he deal successfully with the craft gild and the gild merchant, but he adds a chapter on the provincial clubs in China. The book, though hardly more than a sketch, is well arranged and illuminating.

Judging by the frequency with which new editions appear, Réné Stourm's classic *Le Budget* seems to enjoy an undiminished popularity. The sixth edition, revised and enlarged (Paris, Félix Alcan, 1909; 621 pp.), has been, as we are told, set up anew from beginning to end, and the changes introduced have brought the subject down to date.

Of the many publications called forth by the fiscal contest in England, that issued by the Budget League, entitled *The Budget, The Land and the People*, with a preface by Lloyd-George (London, Methuen, 1909; 92 pp.), has apparently had the widest circulation. It does not deal with the entire budget, but only with the proposed land-value tax, taking up in separate chapters the increment-value duty, the reversion duty, the undeveloped-land duty and the mineral-rights duty; and it pays especial attention to the question of land valuation and the connection between the new tax and social reform. The chief value of the work is to be found in the wealth of facts illustrating the practical exemption from taxation hitherto enjoyed by the owners of land in Great Britain.

The French income-tax bill, which has finally passed the Chamber of Deputies and awaits action by the Senate, is in large part due to the labors of M. Caillaux, the minister of finance. One of his admirers, M. Geraud Bastet, has sought to throw light upon the genesis and development of the movement and, incidentally, upon the personality of its distinguished author, in a book entitled *Une Transformation sociale et l'impôt sur le revenu expliqués* (Paris, Tallandier, 1909; 280 pp.). About one-third of the book is devoted to the life of M. Caillaux, and two-thirds to his speeches and reports on finance. The special topic of the income tax occupies about one-half of the volume. M. Bastet endeavors to point out that the income-tax bill, far from being a radical measure, really responds to the well-considered demands of a moderate social progress. He thinks that M. Caillaux has very deftly adopted what is best in both the English and the Prussian systems, while avoiding the difficulties of both. The text of the bill as passed by the Chamber of Deputies is printed, with

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explanations, at the end. On the other hand one of the leading opponents of the income-tax, Deputy E. Aimond, has published his five chief speeches in a volume entitled *La Réforme fiscale et le projet Caillaux* (Mantes, Imprimerie Beaumont, 1908; 230 pp.). M. Aimond favors a gradual change of the French system of direct taxes rather than their complete replacement by an income tax.

One of the recent publications of the Instituts Solvay is Dr. J. Ingenbleek's *Impôts directs et indirects sur le revenu* (Brussels, Misch et Thron, 1908; 463 pp.). The work is primarily a study of the so-called personal tax (*contribution personnelle*) in Belgium, which the author calls an indirect income tax. The first and third parts of the volume are devoted to this subject, while the second parts treats of the income tax in Prussia and in England. The book is a thorough piece of work and affords a welcome addition to our knowledge of income taxation on the continent of Europe. It contains also an excellent bibliography of the subject.

Miss Margaret E. Hirst, a former scholar of Newnham College, Cambridge, availed herself of a memorial studentship, in 1907, to visit Germany and to examine at Reutlingen and a few other places some hitherto unused material bearing on the career of List. The results of her researches have appeared in a volume entitled *The Life of Friedrich List and Selections from his Writings* (New York, Charles Scribner's Sons, 1909; xxii, 331 pp.) The book is especially timely at a period when the whole world seems to be reverting to List's teachings on protection. In Germany there has been for some years quite a List cult; but, although we have had translations of his chief work, Miss Hirst's book is the first account in English of his life and labors in the United States and in Germany. About one-half of the volume consists of a reprint of List's *Outlines of American Political Economy* (1827) and of his speech to the Pennsylvania Society, to which are added translations of his "Petition to the German Federal Assembly" (1819) and of his introduction to the *National System* (1841). The translator's brother, Mr. F. W. Hirst, provides an introduction, and the book closes with a useful bibliography. Altogether it is an interesting contribution to the history of economics.

A paper by Mr. A. Barton Hepburn upon the canal system of New York has been expanded into a small book, *Artificial Waterways and Commercial Development* (New York, The Macmillan Company, 1909; ix, 115 pp.), by including three brief chapters dealing respectively with the "World's Canals," "The Panama Canal" and "The Waterways Question and Conservation of our Resources." Various

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statistical tables relating to the management of the Erie Canal are appended to the volume. The best part of the book is the original essay upon the canal system of New York, which is divided into four parts: "The Period of Inception," "The Period of Development," "The Present Conditions," and "The Competition against New York City." This brief account of the history and traffic services of the Erie Canal is entertainingly written and will prove instructive to the general reader.

La Cuestión obrera y su estudio universitario (Buenos Aires, Libreria de J. Menéndez, 1907; 45 pp.), *El Problema nacional obrero y la ciencia económica* (La Plata, Archivos de pedagogia y cienceas afines, 1907; 23 pp.), *Herbert Spencer y sus doctrinas sociológicas* (Buenos Aires, Libreria de J. Menéndez, 1907; 87 pp.), *La Teoria y la práctica en la cuestión obrera: el Marxismo á la luz de la estadéstica en los comienzos del siglo* (Buenos Aires, Arnoldo Moen y Hermano, 1908; 68 pp.) and *El Sociólogo Enrico Ferri y sus conferencias argentinas* (Buenos Aires, Libreria de J. Menéndez, 1908; 124 pp.) constitute a selection from recent writings and academic utterances of the eminent Argentine publicist, Dr. Ernesto Quesada. Indicative of the interest and care with which scholars in our sister republics are following the newer problems in the spheres of economics and sociology, they reveal a wide acquaintance with the official publications and scientific literature of Europe and the United States and give evidence of independent thought. Spanish, unfortunately, has not yet become a language of learning sufficiently international in usage to make the circle of readers of Dr. Quesada's able treatises as large as it should be.

In *The Essential Reform: Land Value Taxation in Theory and Practice* (London, Sidgwick and Jackson, 1909: viii, 242 pp.), Messrs. C. H. Chomley and R. L. Outhwaite present the new trend taken by the advocates of the single tax. "Single tax" is now considered to be an unfortunate name, and "land-value taxation" is substituted. Unlike the old advocates, the new ones, as represented in this little volume, do not propose a complete reform or suggest that their measure is a panacea for all the ills of mankind, but ask modestly that the land-value tax be introduced at a small rate, as a means of raising revenue. Unquestionably the new attitude will draw a good many supporters to the modified form of single tax. The authors of this book propose a definite tax of two pence in the pound on land values, and they make the statement that this will result in the rejuvenation of England, especially of agricultural England. The book has an appendix giving

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estimates of rental values in the United Kingdom, in certain American cities and in New Zealand.

In his pamphlet, *Problems and Perils of Socialism* (London, Macmillan and Company, 1908; viii, 126 pp.), Mr. J. St. Loe Strachey has set forth in popular form the traditional arguments against socialism. Old-age pensions, the endowment of motherhood, the limitation by law of the working day for adult workmen and the legal minimum wage are in turn adversely criticized as socialistic proposals.

A series of essays by Mr. Jonathan Thayer Lincoln, dealing with several aspects of the labor problem and published originally in *The Atlantic Monthly* and the *Outlook*, have been put out in book form under the title, *The City of the Dinner Pail* (Boston and New York, Houghton Mifflin and Company, 1909; 186 pp.). The six essays contained in the book reflect a generous and sympathetic nature; they are written in a spirit of candor and fairness; and there is a quiet dignity about their style which makes them eminently readable. It can hardly be said, however, that Mr. Lincoln has contributed anything new to the solution of the labor problem. He finds that solution chiefly in the recognition of the human element in the purchase and sale of labor. The factory system has obscured this human element, and now a conscious effort must be made by both parties to the wage contract to bring it again to the fore. Trade unions he believes on the whole to be useful and effective, but he deplores the tendency to demand from the members a "special loyalty to an organization," because this tendency often involves a "disregard for duties which each man owes to every other fellow man"—in particular, to the non-unionist workman. In the last essay, entitled "The City of Luxury," there is a striking sentence which is worth quoting because it summarizes admirably the author's view of poverty and luxury in the United States: "So long as there remains an uncultivated acre of land anywhere in the Union, there is no real cause of poverty, nor any excuse for luxury while a foot of land is undeveloped."

Since the appearance of Bagehot's *Lombard Street*, no satisfactory book has been published on banking in England, and there was need of a good description of more recent methods. This gap has now been admirably filled by Hartley Withers's *The Meaning of Money* (New York, E. P. Dutton, 1909; 307 pp.). The author, who is the financial editor of the London *Times*, shows himself thoroughly acquainted with banking practice and has also a firm grasp of the theory of the subject. He writes well, even brilliantly; and it is not too much to say of his book that it is a worthy successor to Bagehot's

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masterpiece. Mr. Withers is fond of terse, epigrammatic sayings; for example: "When the consols market is firm, consols go up; when the discount market is firm, bills go down" (page 145). Again: "The essential difference between the broker and the banker lies in the fact that the banker makes credit while the broker sells credit" (page 155). The author's chief practical suggestions, with reference to the alleged inadequacy of the gold reserve, are the establishment of a closer connection between bank rate and market rate and greater publicity of banking accounts.

The task which Mr. C. Y. C. Dawborn has set for himself in *Liberty and Progress* (London and New York, Longmans Green and Company, 1909; 339 pp.) is a rational defense of the gospel of individualism. His treatment of the subject is positive, constructive, scientific. He concedes that individualism is not the only doctrine claiming attention; but it is here, it promises most to humanity, it is in harmony with nature's laws, and it is entitled to a fair trial before it is pronounced inadequate to produce liberty and progress. Based upon the principle of "payment for services rendered," it is honest, and it makes "no assumption of virtues non-existent." Quite as great danger to society arises from the classes of the overpaid as from those of the underpaid. The business of society is to guard against privilege and to preserve equal opportunity for all. The resulting struggle for existence, as in all nature, will be severe, but it will likewise be beneficial. The logic of the book is remorseless, confessedly so; and many conclusions will communicate more or less of a shock to minds trained in modern humanitarianism. His view is the long view, and to his mind to preserve and to increase the number of the unfit is not to be philanthropic but merely to increase the social burdens of the future. Whatever the reader's point of view, the perusal of this book will prove a mental stimulus and will contribute much to a calm and sane view of the great economic problems of our modern life.

It is no easy task to which Dr. Charles F. Dole has addressed himself in *The Ethics of Progress* (New York, Thomas Y. Crowell and Company, 1909; 398 pp.). He has sought "to justify the ways of God to men" amid the perplexing problems of modern life. He has reëxamined fearlessly the foundations of morals and has sought adequately to restate the ethical basis upon which modern progress proceeds. Without being either ignorant or forgetful of the material basis of our modern civilization, the author seeks a correct method of psychological interpretation of the real forces which impel men toward achievements in human welfare. He believes that "ethics is prop-

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erly a science, governed by principles, by the knowledge of which you can predict results and apply means to ends." The book is divided into seven parts: "Ethics and Evolution"; "The Doctrine of Good Will"; "Conscience and the Right"; "Moral Evil: How to treat it"; "The Problem of Human Nature"; "The Realm of Casuistry"; and "Problems in Practice." Numerous chapters in each part deal with the specific problems of right social adjustment. Theological, sectarian or class bias is conspicuously absent. An optimistic spirit characterizes the work throughout. The author's doctrine of "good will" is the key-note of the book. It is a valuable contribution to the literature of social psychology.

The question from what sources, besides the books of Gaius, Justinian's compilers drew the material for the imperial Institutes, and the further question of the extent to which these sources are still discernible in Justinian's Digest or in his Code or in the remnants of the classical Roman jurisprudence which have come down to us outside of the Digest—these questions began, in the nineteenth century, to attract the attention of a number of French, German and Italian legal historians, and today there is a not inconsiderable body of monographic literature dealing with this problem. Professor A. Zocco-Rosa, of the University of Catania, who has been publishing occasional studies on this subject since 1891, has now digested the results of his predecessors' and of his own researches into a monumental *Imperatoris Iustiniani Institutionum Palingenesia*, of which the first volume, covering the first two books of the Institutes, is published by the Institute of the History of Roman Law (Catania, 1908; 490 pp.). Following the order of the Institutes, paragraph by paragraph, Professor Zocco-Rosa reproduces the sources from which the compilers, Theophilus and Dorotheus, drew each sentence, in so far as these sources are discoverable, always conscientiously distinguishing possible or probable sources from those that are indisputable. The work is characterized by the author's well-known erudition, acumen and diligence, and it will form an indispensable part of the text apparatus of every working collection of Roman law.

Under the title *Los Supuestos filosóficos de la noción del derecho* (Madrid, Hijos de Reus, 1908; 210 pp.), Mariano Castaño has translated into Spanish the acute and stimulating work of Giorgio del Vecchio which was reviewed in this QUARTERLY nearly three years ago (volume xxii, page 576).

Derecho político comparado by Adolfo Posada (Madrid, Victoriano Suárez, 1906; 250 pp.) is rather a consideration of methods of teach-

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ing, and of the comparative method of studying, public law than an attempt to formulate, either inductively or otherwise, principles of public law of universal application. The first part, which is devoted to "the teaching of public law," is interesting both as a description of the methods now in use in Spain and as an expression of what one professor of great distinction thinks are the methods which should be adopted. Professor Posada complains both of the ignorance of students on matters of supposedly general knowledge, due to a poorly organized system of secondary instruction, and of the narrow and technical character of the law curriculum—complaints which show that some of our American educational problems are not peculiar to this hemisphere.

While in Anglo-Saxon countries scholars are disputing whether, under the common law, a system of administrative law can rightly be held to exist, on the continent of Europe the chief point at issue seems to be whether administrative law shall be treated as a subdivision of constitutional law or as a separate topic of investigation. In a recent work entitled *Die Verwaltungsrechtswissenschaft* (Leipzig, Duncker und Humblot, 1909; 222 pp.), Dr. Ludwig Spiegel, of the University of Prague, urges that the two fields of inquiry are quite distinct. He defines administration as "every activity of the state" and puts as the question for administrative law: "what shall be undertaken?" Constitutional law, on the other hand, is limited to the inquiry: "through what agency shall the purpose be carried out?" Both deal with the same subject-matter but from different points of view. Such a distinction, however rational in theory and however valid with respect to a government in its totality unlimited, can hardly apply to one where the constitution itself sets limits to the activities in which the government shall engage. English and American scholars, we suspect, will prefer the more restricted definition of an American publicist, which limits the function of administration to the execution in non-judicial matters of the will of the state as expressed by the competent authority. Dr. Spiegel's work is not an attempt to treat administrative law as it has actually developed in any state, but rather an endeavor by philosophical speculation to indicate the basis on which such development should proceed.

In a thin quarto pamphlet, entitled *Artikel 7 bis 31 des Einführungsgesetzes zum Bürgerlichen Gesetzbuch . . . nebst sämmtlichen Entwürfen* (Leipzig, Duncker und Humblot, 1908; 49 pp.), Professor E. Zitelmann shows the genesis and development of the rules determining conflicts of law contained in the "introductory law" which accom-

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panies and is practically a part of the Civil Code of the German Empire. In eight parallel columns are printed the texts of all the successive propositions on this subject, from the first preliminary draft of 1881 to that which was adopted by the Imperial Diet in 1896. Of these texts four are now published for the first time. During the progress of the work of codification there were justifiable differences of opinion as to the expediency of including this branch of the law; and the proposals provisionally adopted by the first commission (and subsequently published in an abridged edition of the "protocols" of the second commission) did not form part of the draft code or of the introductory bill of "the first reading" published in 1888. Inasmuch as the practical value of the drafts collated in this pamphlet is found in the light which they throw upon the existing rules, it may be queried why the editor has arranged all the texts in the order of the first draft of 1881. It is true that several of the original proposals disappeared in later stages of the discussion; but, on the other hand, several of the proposals which found their way into the present law appeared first in later drafts. All the material could have been given in the general order of the existing rules. Proof seems to have been carefully read, although the date "1888" on line 15 of page 2 is obviously impossible. The chief interest of this pamphlet lies in the fact that it appears as the first number (*Heft 1*) of a projected series, entitled *Quellen zum internationalen Privatrecht*, to be edited by Professors Zitelmann and Theodor Niemeyer. There are modern sources of international private law more important, to all except Germans, than those contained in this number; and the historical sources of the existing law (even if we omit all modern and mediæval literature and the Roman law) run back through congresses and treaties, judicial decisions, laws of states, provinces, cantons and cities, provincial and local customs *etc.* to the collisions of the "personal laws" in the empire of the Franks. Of all these sources the judicial decisions are the most important. What is to be the scope of this new series? The first number gives no information.

International Incidents (Cambridge, University Press, 1909; xi, 129 pp.), by L. Oppenheim, is a collection of the international occurrences and hypothetical contingencies which the compiler has developed in connection with "the practice of holding conversation classes" after his lectures. Most of the "incidents" contain too few facts to be of value for a "case" study of the law, and some of them are so meagerly stated as to contain no point at all. Perhaps this may explain the admission of the learned author: "I have spent much thought in the endeavor to class my incidents into a number of groups,

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but having found all such efforts at grouping futile, I therefore present them in twenty-five sections, each containing four cases of a different character."

Letters to "The Times" upon War and Neutrality (London, Longmans Green and Company, 1909; xi, 166 pp.), by Thomas Erskine Holland, embraces letters written from time to time, between 1881 and 1909, "upon points of international law, as they have been raised by the events of the day." Because of the attention which these letters have attracted and the requests for copies which the author has received, he has made them more accessible by publishing them in the present form, providing also a succinct and valuable commentary. The topics discussed are arranged in five chapters entitled: "Measures Short of War for the Settlement of International Controversies"; "Steps towards the Codification of the Laws of War"; "The Commencement of War"; "The Conduct of Warfare as between Belligerents"; "The Rights and Duties of Neutrals." With reference to the convention for an international prize court, which has not yet been ratified by any state, Mr. Holland points out that its provisions "must be accepted, if at all, as a whole" with those of the Declaration of London of 1909. He properly scouts the idea of an international prize court of fifteen judges, representing as many powers, deciding upon the legality of prizes "in accordance with the general principles of justice and equity." The letters and the commentary alike are written in that compact, clear, incisive style which characterizes all of the distinguished author's publications.

In *Consular Cases and Opinions* (Washington, John Byrne and Company, 1910; 811 pp.), Dr. Ellery C. Stowell has placed the officers of our consular service under an obligation by collecting in a convenient and compact form the decisions of the English and American courts and the opinions of the attorneys-general. The consular officials scattered over the globe at numerous points—sometimes decidedly outlandish—must, from the lack of just such material as Dr. Stowell has provided, experience at times serious embarrassment in deciding upon a course of conduct or preparing a report. Reference is also provided to the statutory matter upon the subject by incorporating that portion of the *Index Analysis of the Federal Statutes* by Scott and Beaman which relates to consuls. There is a translation of the consular regulations adopted by the Institute of International Law, an analysis of the treaties of the United States relating to consuls, and a "compendium," prepared by Dr. Stowell, which gives a systematically arranged digest of the subjects treated in the decisions and opinions. The latter shows careful preparation.

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American Foreign Policy (Boston, Houghton Mifflin Company, 1909; vii, 192 pp.), by "a diplomatist," consists of eight well-written essays, which disclose both insight and balanced judgment. The author first states the chief characteristics of our foreign policy prior to the Spanish war, which had the effect of notifying "the world that we were a great power," and he then gives a more detailed analysis of the real meanings of the recent changes. We are to prepare to meet the new conditions, he tells us: "by the presence of a permanent element more familiar with diplomatic traditions than could be expected of envoys often fresh from civil life"; by "enlarging the responsibilities of the juniors [in the service] and [by] the specialization of bureaus along political-geographical lines"—a reform which Secretary of State Knox has inaugurated; by recruiting the personnel in the department at Washington in the same manner in which the diplomatic and consular service are recruited, to the end that there may be regular "interchanges" between the similar grades; by establishing "unity" and "close coöperation" between the central and the foreign branches of the service; by a similar coöperation between the different related services of the government, *i. e.*, the Departments of Justice, War and the Navy; by the establishment of "a congressional secretary, charged with explaining details and answering questions of foreign policy," who "could act as the recognized permanent link between the Senate and House committees" and lessen the occasions for "misapprehensions and errors on either side"; by the "creation of a qualified press bureau in the Department of State, as the recognized channel of communication between the government and the public in all matters of foreign policy"—for our press "is still inclined to treat such questions with a levity or a sensationalism which contrasts unfavorably with the balanced judgment of serious European journals." In a word, the essay points out the necessity for, and in a general way the means of, achieving a stability of policy in our foreign relations. The author wisely observes: "We stand to-day at a transition point where, feeling only the presentiment of our high destiny, we trust rather to chance and the wisdom of the moment than to conscious effort to direct our course."

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